

ROMANÆ  
HISTORIAE  
ANTHOLOGIA  
RECOGNITA ET  
AVCTA.

AN  
ENGLISH EXPOSITION  
OF THE ROMAN ANTI-  
quities, wherein many Roman &  
English offices are paralleld  
and divers obscure phra-  
ses explained.

*For the use of ABBOTTS' Schools.*

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Newly revised and enlarged by  
*J. Godwin the Author.*

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OXFORD,  
Printed by Leonard Lichfield for  
Henry Cripps. A. Dow.  
M. DC. XLII.



PS. 347-1000

ANTHROPOLOGY

96:244



VIRO  
COLENDISSIMO  
D<sup>o</sup> IOHANNI YOUNG  
SS. THEOLOGICÆ DOCTORI,  
& Ecclesiæ WINTONIENSIS  
Decano Ornatissimo.

*Eυδαίμωνέστατα Σέβ' γδ'.*

*Vir Ornatissime,*

**N**ON liberi quàm libri pluribus exponi periculis solent, cum primùm prodeant in lucem: utrisq; pariter opus est tutelari aliquo numine obstetricante. Hoc olim sensit anthologia hæc nostra primùm edita: idem sentit eadem in hodierna duarum sectionum, & capitulorum aliquot superfectione. Nacta igitur secundas suas cogitationes te ambit Patronum, qui facem aliquam mihi in his antiquitatibus obambulant



bulanti prætulisti, & quem multum fuisse in  
studiis meis promovendis, palam & sub Dio  
prædico. videbis me aliquoties alium à do-  
ctissimis viris, & ab illorum sententiis alie-  
num? Veritate enim præponderante, nullus  
apud me Plato, nullus erit Aristoteles; (no-  
lo ego istiusmodi insaniam insanire, utcu-  
que splendidam & *autorisativam*.) Cæterum  
tacitus hoc facio, & apud me, citra omnem  
velitationis pulverem, rarò admodum quo-  
vis protracto in arenam, ne videar ex illo-  
rum numero, qui ex nuda pugna cum ad-  
versario aliquo eximio commissâ, gloriolæ  
nescio quos fumos sibi pollicentur. Hæc  
Icribendi ratio si tibi placeat, alios non mo-  
ror, quibus si simplex veritas non arris-  
seret, cum magnis nominibus deviare per me li-  
cebit. Vale, & meas Musas, ut soleas, ama,  
illæ, quod jam faciunt, te colent semper, &  
omni obsequio prosequentur. *Datum A-*  
*bingdoniæ 14. Cal. Decemb. An. 1622.*

*Dignitati tue*

*multiplici nexu mancipatus,*

THO. GODWIN.





## BENEVOLO LECTORI

*'Eureg'tlon, 'Eura'vny.*



IRARIS forsan & redargu-  
is, quòd nondum destitum ab  
his elementaribus, quasi vita  
mihi vitalis foret, in his minu-  
tiis integram meam aetatem e-  
ludere, & votum unicum in his  
præviis studiis senium contra-  
here. Qui sic sentis, nec me satis  
noris, nec ludi literarii (pone lenocinium nominis,  
moletrinae dices,) iniquas leges, aut miseras quoti-  
dianas & omnigenas. Sentio ego me in pistrinum  
damnatum, & cogita tu hanc Anthologiam è pistri-  
no prodeuntem. Si minùs placeat, illud dabis pue-  
rorum circumstrepentium lusurris, inter quos nata  
est: Si placeat, illud debes puerorum crebris inter-  
rogatiunculis, quarum enodationes, me vel invitum  
indies reducunt ad hæc studia, quæ aliàs jamdudum  
jussissem suas sibi res habere. Sic me amet Theolo-  
gia, sacrator mihi pagina in votis, cum hæc in ma-  
nibus, ludo cogente. Interim te monitum velim,  
quæ accessere, non vulgaria, aut obvia, nec quæ vul-  
gus hominum aut docuit, aut didicit. *Vale.*





БИБЛИОТЕКА ЛЕКТОРА



# A short Table shewing the Argument of every Book and Section.

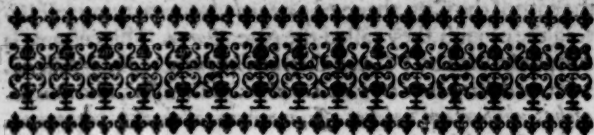
Lib.	1.	{	1	Of the chiefe parts thereof.
	Of the Ro-		2	Of the generall divisions of the Ro-
	man city.			man people.
	Sect.	1	Of certaine generall divisions of	
			their Gods.	
	2.	{	2	Of their Roman Priests with some
	Of the Ro-			particular Gods, together with
	man Religi-			their rites in marriages & burials.
	on. Sect.	3	Of the Romā games, which endeth	
			with their manner of taking meas:	
		1	Of their Assemblies called Comititi-	
			a, which Section is begun with the	
			Roman yeare, concluded with two	
			Chapters of Roman Garments.	
	3.	{	2	Of their civill Magistrates.
	Of the state			3 Of their civill punishments.
politicall.			4 Of all those lawes which I have ob-	
Sect.			served to be touched in Tul. his Orat.	
	1	Of their manner observed in esta-		
		blishing their leagues.		
	2	Of the Roman Legion & the parts		
		thereof.		
4.	{	3	Of the manner of besieging a city.	
Of the art			4 Of the punishments towards their	
military, as			enemies captivated.	
it was pra-			5 Of punishments towards the Ro-	
ctised by the		man souldiers offending.		
Romans.	6	Of certain rewards after the per-		
Cap.		formance of any noble exploits.		



# A Table shewing the Argument of every Book and Section.

1. Of the chief parts thereof.
2. Of the general division of the Ro-  
man people.
3. Of certain general divisions of  
their Gods.
4. Of their Roman Rights with some  
particulars Gods, together with  
their rites in marriages & funerals.
5. Of the Roman Games which ended  
with their manner of taking meat.
6. Of their assemblies called Comiti-  
a, which Section is begun with the  
Roman year, concluded with the  
Chapters of Roman Government.
7. Of their civil Magistrates.
8. Of their small punishments.
9. Of all those laws which I have ob-  
served to be taught in the Ro-  
man Law.
10. Of their manner observed in dis-  
tributing their legacies.
11. Of the Roman Section of the parts  
thereof.
12. Of the manner of bestowing a will.
13. Of the punishments towards their  
common captives.
14. Of punishments towards the Ro-  
man soldiers of courage.
15. Of certain rewards after the per-  
formance of any noble exploits.





# THE ROMANE ANTIQUITIES

*Expounded in English.*

LIB. I. SECT. I.

*Of the chiefe parts of the City.*

CAP. I.

*De modo condendarum, delendarumq; Urbium.*



Efore we handle the description of the particular places in the Roman City, it will not be amisse to premise somewhat concerning the ancient manner of building and raising Cities. In the building of Cities, the founders thereof did usually consult with their Gods in their *Augurall*

observations; and <sup>a</sup> this course was observed by *Romulus* <sup>a M. Tullius</sup> himselfe, in the first foundation of *Rome*: After their *Augurall* observations, they marked out the place where the wall of the City should be built, by plowing up the ground, and because they left that space of ground unplowed, lightly lifting the plough over it, where they appointed

A

the

lib. i. de divinaz



b M. Cato in  
fregm.

the gate of the City, thence à portando, from carrying and lifting the plough, they called the gate *Porta*. This custome is fully described by <sup>b</sup> Cato: *Captato augurio, qui urbem novam condebat, sauro & vaccâ arabat: ubi arâset, murum faciebat, ubi portam volebat esse, aratrum tollebat & portam vocabat.* Virgil also alludeth unto it,

*Interea Aeneas urbem designat aratro.*

The manner hereof was, that he who held the plough, did cast up the skirt of his gowne on the right shoulder, and gird himselfe about, either because this was the usuall habit of such who performed holy rites; (in the number of which this present action was reputed) or that he might the more readily addresse himselfe to the businesse; or lastly, that he might symbolically by that pacificall habit intimate, that the flourishing estate of a City is not so much preserved by war, as by peace. Hence Ovid. lib. 4. *Fastorum*.

*Ipse tenens strigam, designat moenia sulco;*

*Alba ingum niveo cum bove vaccâ tulit.*

æ Cæcl. Rhod. The æ like custome was used also in the razing or demolishing of Cities, when they had been vanquished by the enemies: which observation giveth light to that of Horace. lib. 1. *Od.* 16.

— *urbibus ultima  
Stetere causa, cum perirent  
Funditus, imprimeretq; muris  
Hostile aratrum exercitus insolens.*

## C A P. 2.

*De monte Palatino.*

d Vid. Anton.  
Constantium  
in Ovid. Fast.  
lib. 1.

T Ouching the name of *Rome*, from what occasion the City should be so denominated, divers authors conceit diversly. <sup>d</sup> Some are of opinion, that this City was built long before *Aeneas* came out of *Troy*, & was then called by the



the Latines, *Valentia*, which was a name of strength, whence *Evander* comming into *Italy*, called it *Roma* from *pa'um Robur*. Others say, it was so called from *Ascanius* his daughter, whose name was *Roma*. But it is agreed upon by most writers, that the Founders were *Romulus* and *Remus*, and from *Romulus* it was called *Roma*, not *Romula*, because the diminutive, *Romula*, might ominate lesse prosperity thereunto. Some say, that they built it in forme of a quadrangle, upon one only hill, called *Mons Palatinus*. Others say, that *Fabius* left *Rome* as it was first built, with the fields thereof, painted in the forme of a bow, the river *Tiber* being the string thereof. Vpon this *Palatine* hill was alwaies the seat of the Roman Empire, which from the hill tooke the denomination of a *Palace*: & hence all stately buildings which we call *Palaces*, took their name, *Palatia*. This hill had his first appellation *Palatinus*, a *Baland*, from the bellowing of cattle pasturing there in former times, & afterwards the first letter being changed, it was called *Palatinus*: by the figure *anisorger*. *Virgil* seemeth to be of opinion, that the hill was called *Palatinus* by *Evander*, in remembrance of his grandfather, whose name was *Pallas*, according to that,

—*Posuere in montibus urbem,*

*Pallantis proavi de nomine Palenteum. Virg. Aeneid. l. 3.*

In proesse of time six other hills by severall Kings of *Rome* were added; whereby the City, and the *Pomarium*, that is, the territories of the City were enlarged, and *Rome* called *Urbs septi-collis*, id est, the City upon seven hills.

*Sed qua de septem totum circumspicit orbem*

*Montibus imperii Roma deumq; locus. Ovid. Trist. lib.*

*1. Eleg. 4.*

Vpon this *Palatine* hill also stood the *Asylum*, or sanctuary of refuge, which *Romulus* opened in imitation of *Cadmus*, who at the building of *Thebes* was said to have opened a sanctuary of refuge, whither whatsoever malefactor could escape, were he bond or free, he was not to be punished. It

*e* *Rofin. antiq.*  
*lib. 1. cap. 2.*  
*f* *Sig. de jur.*  
*Rom. l. 1. c. 2.*

*g* *Rofin. ant.*  
*lib. 1. cap. 4.*  
*h* *Vid. Servium in Aeneid.*  
*lib. 8.*

*i* *Alex. Gen.*  
*dier. l. 3. c. 20.*  
*ubi plura le-*  
*ctione digna*  
*de Asylio,*



was much like unto a custome of the people in the City *Croton* who flying unto the altars of their Gods, obtained the forgiveness of faults not voluntarily committed. Whence these two phrases are expounded alike, *Ad te tanquam ad Asylum*, and *Ad te tanquam ad aram confugimus*, id est, wee fly unto thee as our only refuge.

## CAP. 3.

*De monte Capitolino.*

& *Rolin ant.*  
*lib. I. c. 5.*

1  
*I Plutarch. in*  
*Romulo.*

2

3  
*as Dion. H.*  
*licar. lib. 4.*  
*as Lipsius de*  
*magnitud.*  
*Rom. cap. 5.*

**T**His hill was famous for three names: it was called *Capitolium*, *mons Tarpeius*, and *mons Saturni*; It was named *Saturnes* hill <sup>k</sup> from the heathenish God *Saturne*, who vouchsafed to undertake the protection of that place. It was named the *Tarpeian* hill <sup>l</sup> from *Tarpeia* one of the Vestall Nuns, daughter to the chiefe keeper of the Capitoll, ( this hill being the Castle of defence for the whole towne ) for this *Tarpeia* betrayed the Capitoll into the enemies hands, bargaining to have the golden bracelets upon her enimies left hands, for this her treason. Now the enimies when they were admitted in, did cast not their bracelets alone, but their bucklers also upon her, through the weight whereof shee was pressed to death: upon which occasion the whole hill was afterwards called, the *Tarpeian* mount; but more principally a certain rock of that hill called *Tarpeia rupes*, from whence malefactors were sundry times tumbled headlong. The same was likewise called the *Capitoll*, because when the foundation of a certaine Temple, built in the honour of *Jupiter* was laid; a mans head, full fresh and lively, as if it had been lately buried, <sup>m</sup> yea hot blood issuing out of it, was found there. <sup>n</sup> *Arnobius* saith, that the name of this man being alive was *Tolus*, and hence from *Caput* and *Tolus*, the whole hill was called *Capitolium*.

CAP.



## CAP. 4.

*De colle Quirinali.*

**T**His hill being in former time called *Agonalis*, then began to be called *Quirinalis*, when certain *Sabines*, called in Latine *Curetes*, came and inhabited there, (truce being made between the *Romans* and the *Sabines*;) though some would therefore have it named *Quirinalis*, because there was a Temple erected in the honour of *Romulus*, called also *Quirinus*. It was called in the time of the Emperours, *mons Caballus*, that is, the horse-hill, taking its denomination from two marble statues of *Alexander* taming his horse *Bucephalus*; which statues *Constantine* the Emperour brought to *Rome*, and placed them in the midst of certain bathes, which he made upon this hill. There doe appeare in this hill three risings, or hillocks; the one being called *Salutaris*, the other *Martialis*, and the third *Latiaris*. All this may be collected out of *Rosinus*. *o* Antiq. Rom. l. 1. c. 6.

## CAP. 5.

*De monte Caelio.*

**T**His hill hath his name from a certaine *P* Captaine of *Hertruria*, which assisted *Romulus* against the *Sabines*. *p* Alex. Gen. diar. l. 6. c. 11.  
On this hill, King *Tullus Hostilius* erected stately edifices, which for a time served as his Palace: but afterward they became the chiefe Concell-house, whither the *Senators* assembled themselves for the determining of State-matters: and because this *Curia*, did farre exceed all others, therefore Authors many times use this word *Curia* simply, *q* Alex. Gen. diar. l. 1. c. 16. without any adjection, to signify *Curiam Hostiliam*, as if there were no other. It much resembleth our Privy-Council Chamber,



¶ Rosin. antiq.  
lib. 7. 5.

/ Rosin. ibid.

¶ Munster. in  
sua Cosmog.  
lib. 2. cap. 9.  
¶ Alex. Gen.  
dier. l. 6. c. 11.

Chamber, in respect that none might sit there, but only *Senators*; whereas in the Court house, which *Pompey* built (being therefore called *Curia Pompeia*) <sup>2</sup> other City Magistrates were admitted amongst the *Senators*: and in *Curia Julia*, *id est*, the Court-house which *Julius* made, were examined <sup>1</sup> forreigne matters, as Embassages: but in *Curia Hostilia* domesticall matters onely were treated of, and that only by the *Senators*. <sup>2</sup> At this present time, this hill is beautified with many Christian Churches, as the Churches of *S. Stephen*, *S. Paul*, and *S. Iohn*, our Saviours Hospitall, &c. <sup>3</sup> It was also called *Mons Querculanus*, from the abundance of Oakes growing there.

### CAP. 6.

#### De monte Esquilino.

¶ Rosin. ant.  
lib. 1. cap. 8.

THIS hill was so named *quasi* <sup>2</sup> *excubinus*, *ab excubiis*, *id est*, from the night watching, which *Romulus* did undertake upon that, somewhat distrusting the fidelity of the *Sabines*, in the beginning of their league. In this hill there were three hillocks, named, *Cispinus*, *Oppius*, and *Septimius*.

### CAP. 7.

#### De monte Aventino.

¶ Alex. Gen.  
dier. l. 6. c. 11.

¶ Plutarch. in  
Romulo,

THE *Aventine* mount, took his name <sup>a</sup> from *Aventinus*, a certaine King of *Albanum*, which was there buried. Vpon this hill stood *Hercules* his Altar, and certaine Temples consecrated to *Iuno*, *Diana*, *Minerva*, *Lucina*, and *Murcia*, *id est*, *Venus*: whence the hill hath sometimes been called *Diana* her hill. and *mons Murcius*. Vpon <sup>b</sup> this Mount, *Remus* would have built *Rome*, and therefore it was called *Remonius mons*: but since it hath been called *Mons Rig-*



*Rignarium*, as it appeareth by *Plutarch* in the same place. It had morcover the name of the *Holy Mount*, being called in Latine *Mons sacer*.

C A P. 8.

*De monte Viminali.*

**B**Ecause of the abundance of wicker twigs, which did grow upon this hill, it was called *Mons Viminalis*, *vimen* signifying a twig or ozier. I am not ignorant, that some would have this hill to be named *Viminalis*, from *Iupiter Viminus*, whereas *Iupiter* himselfe was named *Viminius* from this hill, because he had here many altars erected in the honour of him. Both this hill, and *Iupiter*, were called *Faguales*, from *sylva fagea*, *id est*, a cops of Beech-trees, which did grow thereupon. *Vid. Rosin. antiq. lib. 1. cap. 9.*

C A P. 9.

*De tribus collibus adiectis.*

**T**Hree other hills there were, which in proceffe of time were added unto the City, which partly because they were not included within the *Pomerium* so soone as the other, but chiefly because they were not of such note, therefore *Rome* retained the name *Septi-collis*. The first of those hills was called *Collis Hortulorum*, *id est*, the hill of Gardens, so termed because of the many gardens neere adjoyning.

<sup>a</sup> Here was the *Cirque*, or the shew-place of the strumpet *Flora*, which made the people of *Rome* heire to those goods which shee had gotten by prostituting her body to young Gentlemen, leaving also a certaine summe of money to procure a celebration of her birth-day: which because of her infamie, the people shaming to doe, they feigned her to bee the

<sup>c</sup> *Rosin. antiq. lib. 1. cap. 11.*

<sup>d</sup> *Barthol. Lat. tomus in Vest. rin. Ora. 7.*



e LaStant, de  
fal. relig. lib.  
1. cap. 20.

the Goddesse of flowres, and that she must be first appeased by sports and plaies, performed in the honour of her, before the trees and fruits of the earth would prosper; \* and that they might gaine the better credit unto this their fable, they adde farther, that she was once called *Chloris*, and was married unto *Zephyrus*, from whom by way of dowry she received power over the flowers. The second was called *Ianiculus*, from *Iannus* that two-faced God: who, as writers testifie, was there buried. It did lye beyond the river *Tiber*, & hath now changed its name, being called from the yellow sands, *Mons aureus*, and through negligence of the Printer, *Montorium*, id est, the Golden Mountaine. The third was famous for the many divinations, and prophecies uttered upon it, & thence was it named *Vaticanus* from *Vaticinium*, a fore-telling. † It is at this time famous for a Library in it, called *Bibliotheca Vaticana*.

f Munster in  
sua Cosmogr.  
lib. 2. cap. 8.

## CAP. IO.

## De Foro Romano.

**F**orum hath divers acceptions: sometimes it is taken for a place of negoriation, or merchandizing, which we call a *Market-place*: and being taken in this sense, it hath commonly some adjective joyned with it, as *Forum boarium*, the beast-market, *Forum piscarium*, the fish-market, *Olivorium Forum*, the hearb-market: other times it is taken for any place, wheresoever the chiefe governour of a Province doth convocate his people together, there to give judgement according to the course in law: whence a man is said, *Forum agere*, & when he keeps the *Assises*, and *Forum indicere*, when he appointed the place where the *Assises* shal be kept. Thirdly, it is taken for a place, where controversies in law are judicially determined, & Orations are had unto the people, At first, of this sort were only three, *Romanum*, *Insli-*

g Hubertus in  
Cip. lib. 3. ep.  
fam 6.



um, & Augustū, as is clearly evidenced by that of Martial,  
*Atque erit in triplici par mihi nemo foro.*

Afterward the number was increased to sixe distinct *Forums*: One called *Forum Iulium*, because it was built by *Iulius Caesar*. A second was added by *Octavius Augustus*, called therefore *Augusti Forum*. The third *Forum*, was founded by *Domitian* the Emperour: but by reason of his sudden death, *Nerva* had the finishing thereof. It had the name of *Forum Transitorium*, the transitory *Forum*, because there was *Transitus*, *id est*, a way or passage through it into three severall market-places. The same *Martial* calleth it sometimes *Forum Palladinum*, because in the middle thereof a Temple was erected in the honour of *Minerva*. A fourth was added by the Emperour *Trajanus*, wherein was erected a stately colunne or pillar 140 cubits high, having all the noble exploits performed by *Trajanus* engraven in it: Another was called *Salustij forum*, because *Salust* bought it with divers Gardens adjoining, which since have been called *horti Salustini*. The last *Forum*, which indeed was first built, and in all respects excelled the rest, was called *Forum Romanum*, and *Forum vetus*, or by way of excellency the *Forum*, as if there were no other *Forum*: where we must understand, that as often as *Forum* is used in this latter sense, namely for a pleading place, it is so used figuratively, by the figure *Synechdoche*: for in truth the pleading place, wherein Orations were had, was but one part of the *Forum Romanum*, namely that Chappell, or great building, which they called *Rostra*. <sup>i</sup> Round about this *Forum Romanum*, were built certaine tradesmens shops, which they termed *Taberna*, and also other stately buildings, called *Basilica Pauli*. Here was the *Comitium*, or Hall of justice; the *Rostra*, *id est*, the Orators Pulpit; *Saturnes* Sanctuary, or the common treasure-house; and *Castors* Temple: of all which in their order.

<sup>b</sup> Liplius de  
 magnitud.  
 Rom. l. 3. c. 7.

<sup>i</sup> Hen. Sal-  
 muth in Pam-  
 dirol. lib. re-  
 rum deperdit.  
 cap. de basili-  
 & taber.



## CAP. II.

## De Basilicis.

h Sigon. de  
judicijs lib. 1.  
cap. 28.

**B**asilica were upper buildings, of great state and much cost, being supported with *Pila*, *id est*, flat sided pillars; and having underneath them walks, much resembling our Cloysters, saving that the *Intercolumnia*, or space betwene the pillars lay open unto the very ground. That they were upper buildings may be collected by the custome of many men, which were wont to walke under these Basilicall buildings, and therefore were called, *Subbasilicani* by *Plautus*. The use of these were principally for the Judges to sit in judgement; but in their absence it was lawfull for Merchants to deale in their businesses. Those of chiefe note were three, thus named, *Pauli*, *Porchæ*, and *Iulia*.

## CAP. 12.

## De Comitibus.

1 Sig. de jud.  
lib. 1. cap. 7.

**C**omitium<sup>1</sup> was a part of the *Forum Romanum*, being a great large hall of justice, which for long time was open at the top, having no covering, and for that reason the assemblies were often dissolved in rainy or unseasonable weather. In it stood the *Tribunall*, being a place erected up on high in forme of our Pulpits, but many degrees larger, and in the midst thereof, the *Sella Curulis*, *id est*, the Ivory chaire, frô whence the chiefe Magistrate administred justice, other inferior Magistrats sitting on benches on each side, which were called *Subsellia*, because they were lower thê the *Tribunall*. Those which sat upon these benches had power *cognoscere*, but not *pronunciare*; much like to our Iustices at Assises, which may examine or informe against a male-



malefactor, but not condemne him. Where we may observe the difference between *Comitium*, signifying such an edifice or building, and *Comitia*, signifying the Roman assemblies: both being called a *coenodo*. This hall was many times called by the name of *Puteal Libonis*. The reason of which name is rendred thus by <sup>m</sup> some; that in this *Comitium*, *Actius Navius* did once with a razor cut in two a whetstone, and in memory thereof, his statue was erected, with an hat upon his head, for *Puteal* properly doth signify the cover of a well, but in a large acception, it signifieth a broad brimmed hat, as *Caelius Rhodiginus* noteth in the same place. <sup>n</sup> *Cicero* toucheth this: *Cotem illam, & novaculam defossam in comitio, supraq; impositum Puteal. accepimus.* But why it should be called *Puteal Libonis*, is yet doubtfull, except happily *Libo* was the first erecter of this statue. That it was a common court, and knowne place of justice, *Horace* witnesseth, *Roscius orabat, sibi adesses ad puteal erat.*

<sup>m</sup> Cael Rhod.  
l. 10. cap. 17.

<sup>n</sup> Cic. de divin.  
vinat.

## CAP. 13.

## De Rostris.

**N**Ext to the *Comitium* stood the *Rostra*, a goodly faire edifice, in manner of the body of a Cathedrall church: In it stood an Orators Pulpit, deckt and beautified with the stemmes of many ships, which the *Romans* got from the people of *Antium*, in a memorable battaile upon the Sea: And <sup>o</sup> hence from those ship-beakes, called in Latine *Rostra*, hath this place taken its name. It may be Englished, the great Oratory, or place of Common-plea.

<sup>o</sup> Hubert. in  
Cic. ep. lib. 1.  
ep. fam. 1.



## CAP. 14.

## De Templo Castoris.

p Suet. in Ju-  
lip. Casare,

**A**Nother part of the *Forum* was a sanctuary built in the honour of *Castor* and *Pollux*: the reason thereof was because they appeared unto the *Romans* in the *Latin* warre, in the likenesse of two Angels sent from heaven to lead the *Roman* army, and to assist the *Romans* against the *Latines*: who being vanquished, they suddenly were departed out of the field, none knowing how, & even in the same moment they appeared upon their sweating horses unto the *Roman* Citizens in the *Forum*, who taking them for souldiers, demanded what newes they brought home from the camp: they replied that the *Romans* were conquerours: which newes being delivered they suddenly vanished and were seen no more. Vpon this occasion did *A. Posthumus*, being at that time *Dictator*, build a Temple in that place of the *Forum* where they were seen, in honour of them both: Although in the after ages, it had the name only of *Castors* Temple. Whence arose the jest of *M. Bibulus*, against his fellow Consul *Julius Caesar*, saying, it fared with him, as it did with *Pollux*; *id est*, as this Temple which was erected in the honour of both the brethren, carryed the name onely of *Castors* Temple; so the great expences in exhibiting shewes in the time of their Consulship, though they were deeper on *Bibulus* his side, yet *Caesar* carried away all the thanks, and credit. Insomuch that the people being wont to subscribe the names of both Consuls at the end of their Deeds, and Charters, for a remembrance of the yeare; that yeare they wrote, such a thing done, not *Bibulus* and *Caesar*, but *Julius* and *Caesar* being Consuls,

CAP.



## CAP. 13.

## De Aede Saturni.

**S**aturnes sanctuary <sup>1</sup> was the common treasure-house, <sup>2</sup> wherein the subsidie money which the Commons paid unto the treasurers called *Quaestores*, was to be laid up: whereof divers conjecture diversly. *Alexand. Neop.* <sup>3</sup> saith, that *Saturn* found out the use of brazen money: and therefore this Temple might be thought the fittest place for the treasury. *Plutarch* thinketh rather, that the making of the treasury in that place did allude to the integrity of time, wherein *Saturne* reigned, being the Worlds golden Age. <sup>4</sup> But the most received opinion, is the strength of the place, <sup>5</sup> whereby it was the safer from theevs. The temple by reason of the use it was put unto, was called *ararium*, from *ar*, <sup>6</sup> *id est*, Brasse: which name now is common to all treasure-houses: for that the first money used by the *Romans* was of that mettall, untill the yeare of *Rome*, 485. (as *Pliny* witnesseth *lib. 3. cap. 33.*) <sup>7</sup> Some are of opinion, that before the use of Brasse, they made money of Leather: whence *Numa Pompilius* is said to have given Leather money in a dole unto the people. Touching their order observed in the treasury, we must understand that their care in providing against sudden dangers was such, that they laid aside the twentieth part of their receipts, which they <sup>8</sup> called *aerum*, <sup>9</sup> *vicefimarium*, *lucensimarium*, and *Cimiliarchium*, into an inner chamber or more sacred room, named in Latine *ararium sanctius*. <sup>10</sup> We may read also of a third treasury called *Ararium militare*, wherein *Augustus* had appointed that the twentieth part of certaine Legacies should be laid up to defray charges in extraordinary wars: where it lay so privileged, that it was a capitall crime to use any of it, but in extreame and desperate necessity. Notwithstanding, how so-

<sup>1</sup> Plutarch in Publicola.

<sup>2</sup> Alex. Gen. dier. l. 4. c. 15.

<sup>3</sup> Alex. Gen. dier. l. 2. c. 2.

<sup>4</sup> Alex. Gen. dier. l. 4. c. 15.

<sup>5</sup> Alex. Gen. dier. l. 2. c. 2.

<sup>6</sup> Servius l. 2. Virg. Georg.



\* Alex. Gen.  
dier. lib. 2. c. 2.

ever it was used as a treasure-house, \* yet divers Authours  
testifie that the Acts of their Senate, the bookes of records,  
together with such bookes as were for their immeasurable  
bignesse called *libri Elephanini*, wherein all the names of  
their Citizens were registred, and also their military En-  
signes, were contained there. \* And from those statute-  
bookes called *sabula publica*, this treasury was also called  
*Tabularium*, because they were laid up there.

y Plutarch. in  
suis problem.  
vid. Fran. Syl-  
vium in Cau-  
linar. 4.

## CAP. 16.

*De campo scelerato.*

z Munster in  
sua Cosmog.

o Plutarch. in  
Numa,

**C***ampus sceleratus*, the field of execution \* lying with-  
in the city, joyned to the gate *Collina*. It was the place  
where the Vestall Nunnes, if they were deflowred, suffered  
punishment after this manner. There \* was made a Vault  
under the earth with a hole left open above, whereby one  
might goe downe; within there was a litle couch with a  
burning lamp and a few victualls, whither the defiled Vo-  
tary was to be brought through the market place, in a litter  
so closed up with thick Leather, that her mournings might  
not bee heard to the moving of pittie. Shee being thus  
brought to the place of execution, was let downe by a lad-  
der into a hollow Cave, and the hole presently stopped.  
And the reason why they suffered such a kind of death was  
because they thought it not fit, that shee should bee burnt  
with fire, which kept not the sacred fire with greater fan-  
ctity: and it was thought unlawfull to punish them by  
laying violent hands on them, because they had in former  
time served in so holy a function.

## CAP.



## CAP. 17.

## De Campo Martio.

**T**He <sup>b</sup> *Campus Martius*, otherwise called *Tiberinus*, <sup>b</sup> *Rosin. Antiqu. l. 6. c. 11.* (because it was neare the rive *Tiber*) was given unto the Roman people, by *Caja Tarratia*, a Vestall Virgin: but *Tarquinius Superbus*, the last king of *Rome*, did take it from the people, converting it to his owne private use: insomuch that he sowed corn there; which, when he was deposed, the *Romans* did cast into the river *Tiber*, judging it unfit that any man should reap any commodity from so holy a ground. In proësse of time, the sheaves of corne being stopped in a shallow foard of the river, became firme ground, and was called, *The holy Island*, or *Æsculapius his Island*: & presently after the expulsion of *Tarquinius*, this *Campus Martius* was restored unto its former use. Beside the naturall pleasantnesse of the place it selfe, it was beautified with many ornaments brought out of the *Capitoll* (the *Capitoll* being too full) as likewise with divers images of well deserving men. Hither did the younger sort of *Romans* come to exercise Chivalry, namely the horse-race, the foot-race, wrestling, fencing, casting the bowl, the sledge, the dart, using the sling, the bow, valting, with such like; and upon this occasion it was dedicated to *Mars* and called by *Strabo* the *Romans* great schoole of defence. The manner of valting was, <sup>c</sup> *Coel. Rhod. l. 21. c. 29. 30.* in riding to leape from one horse backe upon another, their custome being for their horsemen in warre, to leade a spare horse in their hands, besides that whereon they did ride, that when the one did sweate, they leaped upon the others back, a *desiliendo*, those horses were called *Equi desultorij*: whence an unconstant, wavering, and unsettled mind, which *Seneca* calleth *Vulaticum ingenium*, others have called *Desultorium ingenium*. In this field were men of best note burned, when they dyed. Here were the Kings, and other Magistrates,



d Servius in  
Buc. eclog. 1.

gistrates at first created. In this<sup>d</sup> field of *Mars* also was a place at first rayled like a sheep-pen, called therefore *Ovilis* or *sepia*; but afterwards it was mounted with Marble stone, beautified with stately walkes and Galleries, and also with a Tribunal or seat of justice, within which precinct the people oftentimes assembled to give their suffrages toward the election of Magistrates. The meanes of ascending up unto these *Ovilis* was not by stayres, but by many bridges, made for that time, every parish in the assembly of parishes, and every Tribe or Ward in the assembly of the Tribes, and every hundred in the assembly of Centuries having his Bridge: whence this Proverbe was occasioned, *de ponte deiciendus, id est*, he is to be barred from giving his voice. <sup>e</sup> These Bridges were not made over any river, but over the dry land: whence men were said to be cast, *Non ut periclitarentur de vita, sed ne suffragarentur in Comitibus.*

e Ioan. Saxo-  
nius in Orat.  
pro S. Roscio.

# C A P. 18.

## De Circo Maximo.

**A**Mongst other places where the *Romans* exhibited their playes unto the people, the most remarkable was the great Cirque, or shew-place, called in Latin *Circus Maximus*. It was a large peice of ground, lying neare that part of the *Auentine Mount*, where *Dianaes* Temple stood. It was built by *Tarquinius priscus*, with divers galleries round about it, from whence the *Senators* & Gentlemen of the City did behold the running with great horses at lists, the fire-works, tumbling, the baiting and chasing of wild beasts, &c. In former time, all did stand on the ground, being sheltered from the rain by the helpe of boards upheld with forks in manner of house-pentices: and this custome continued untill the aforesaid *Tarquinius* erected those Galleries, called *Fori*, making thirty distinctions of them



them, allotting every ward or company their severall quarters, all the seats being able to containe one hundred fifty thousand parties. <sup>f</sup> Under these places were cells, or vaults, <sup>f</sup> Rosin. antiq. lib. 5. c. 44. where women did prostitute their bodies, and would buy stolne goods: and for this reason *Horace* calleth it *fallacem Circum*, *id est*, the deceitfull shew-place. There was at the one end of their cirque certaine barriers, *id est*, places barred, or railed in, at which place the horses began the race; and at the other end was the marke, whither the horses ran; it was called in Latin *Meta*; and the barriers, *carceres*, *à coer-cendo*: whence we say *à carceribus ad metam*, *id est*, from the beginning to the ending.

## CAP. 19.

## De Theatro.

**T**He Theatre hath his name from the Greeke verbe *θεωω*, *id est*, to behold: because the people flocked thither to behold playes and shewes exhibited to them. The custome <sup>h</sup> first sprang from the shep-herds, who leading a contemplative life, were wont to compose dialogues in metre, & at their leisure to recite them under the trees pressed downe in form of an arbor; whence this theatrall terme *σκινη* hath been derived from *σκις*, a shaddow, but afterward learned Poets composed Comedies, and Tragedies, which were publikely acted in the City upon a stage: and although at the first it was counted infamous to frequent them, yet afterwards the *Senators* themselves, yea the *Emperours*, and all the chiefe of *Rome* assembled thither. <sup>i</sup> Neither for a long continuance were there any seats built, <sup>i</sup> Alex. Gen. diar. l. 5. c. 16. but Commons, and Nobles, promiscuously one with another, all stood on the ground: insomuch that those which stood behind, raised up places with turfes of earth, which gave the people occasion to call the places between those

C turfes



turfes and the scafold, *Cavea*, *id est*, a cave or denne: yea the people that stood there, were so called from the place. Though the Theatre be now takē only for the stage; yet thē by it was understood the whole roome, where these playes were acted: & it had divers parts; some proper to the actors, some to the spectators. To the actors first belonged the *proscenium*, *id est*, the house whence the players came: where they apparalled themselves, though somtimes it is takē for the scafold or stage it selfe: secondly, the *pulpitū*, *id est*, the stage or scafold upon which they acted: & thirdly, the *scena*, that is, the partition, which was commonly made of wood, not of hangings. Now that they might change their Scene according to their pleasure, they made it <sup>k</sup> *Versatilem*, *id est*, so that with engins it might upon the suddaine be turned round, and so bring the pictures of the other side into outward appearance: or otherwise *Ductilem*, *id est*, so that by drawing aside of some wainscot shuttles (which before did hide the inward painting) a new partition might seeme to be put up; and I think, because those shepheards did act no more at a time thē one of our *Scenes*, hence have we distinguished our plaies into so many parts, which we call *Scenes*. The places which were proper to the spectators, were distinguished according to their degree and ranke; for the remotest benches were for the Commons, & called *popularia*; the next for the knights and Gentlemen of Rome, & called therefore *Equestris*; the others wherein the Senators did sit, were comonly called *Orchestra*: this may be collected out of <sup>l</sup> *Lipsum*. <sup>m</sup> *Cal. Rhodiginus* saith, that the *Orchestra* was that place joyning to the stage, where *Chorus* spake to the people at the end of every act. Divers authors are of *Cal. Rhod.* his opinion, deriving the word *Orchestra*, from the Greeke *ορχήστρις*, to dance: but it seemeth more probable to have bin a peculiar place, allotted for the Senators. *In: Sat. 3.*

¶ *Servius l. 3.*  
*virg. Georg.*

*Popularia.*  
*Equestris.*  
*Orchestra.*

<sup>l</sup> *Lipsius de*  
*amphith. c. 14.*  
<sup>m</sup> *Cal. Rhod.*  
*lib. 3. c. 8.*

*Equales habitus illis similemq, videbis*

*Orchestram, & populum---id est, optimates & plebē.* The whole



whole building made for entertainment of the spectators, resembled a triangle or wedge, sharp towards the stage, and broad behind: whence the whole was denoted by the name *Cunens*, whē *Cunens* signified any particular place about the theatre, thē by it we are to understand that which formerly we called *popularia*, the place for the meaner sort of people; whence when we would point out a base and ignoble person, *Inter cuneos residere distitamus*. There was also another kind of scaffold, built quite round, made as it were of two Theatres joyned together, it was called *Amphitheatrum*, and differed from the Theatre, only as the full moone doth from the halfe, or a compleat rundle from a semi-circle: it resembled an egge. Vpon this kind of scaffold did the Masters of defence play their prizes; and wild beasts were baited. *In Amphitheatro gladiatorij ludi, & conclusarum ferarum venationes exhibebantur*. The *Amphitheatre* it selfe in the judgement of *Lipsius* was termed *Cavea*, *ab interiore parte qua concava erat*; and *Arena*, because it was strewed with gravell and sand, that the blood of such as were slain in the place might not make the place too slippery for the combatants. Hence cometh that phrase, *In arenam descendere*, to goe into the field: and the combatants were thence called *Arenarij*. Here we must note, that howsoever the *Amphitheatre* was strewed commonly with common and ordinary gravell, yet sometimes in their extraordinary shewes that gravell was covered & as it were newcoated, with the scrapings & dust of some extraordinary stones, to adde the greater lustre unto it: thus much *Pliny* intimateth, *Invenere & alium usum ejus lapidis, in ramentis quoq; Circum maximum sternendi, ut si in commendatione & candor &c.* Again, sometimes the hollow places or denues under the *Amphitheatre*, in which the wild beasts were kept, and likewise men to be committed with wild beasts, out of which these were let loose by the lifting up of trap-doores to be hunted or baited upon the *Amphitheatre*, were called *Cavea*. For we must

*Caes. Rhod. lib. 8, cap. 8.*

*Turneb. ad- vers. lib. 5, c. 5.*

*Hosp. de o- rig. fest.*

*Lip. de Am- phit. c. & 3.*

*Plin. lib. 36.*



know that the *Amphitheatre* was full of hollow passages for many reasons, as for the convenient keeping of wild beasts and beastiaries, so sometime for the better conveying of waters thither, by the meanes whereof <sup>f</sup>reall ships and sea-skirmishes were oftentimes exhibited upon the *Amphitheatre*.

## CAP. 20.

**M**oreover for the better understanding of Classicall Authors, it will not be impertinent to point at the generall names, by which the religious places were called: and to declare the proper acception of each name, the names being these, *Templum, Fanum, Delubrum, Aedes sacra, Pulvinar, Sacrarium, Lucus, Scrobiculus, Ara, Aliare, Focus*.

## De Templo.

<sup>a</sup> Rosin. Ant.  
lib. 2. cap. 2.

<sup>c</sup> Lilius Gy-  
rald. de dijs  
genil. syntag.  
17.

<sup>d</sup> Lib. 4. Æ-  
nead. v. 457.

<sup>e</sup> Fr. Sylvius  
in orat. pro  
Muræ.

This word *Templum* doth sometimes signify those spaces and regions in the ayre & earth, which the *Augures* did quarter out with their crooked staffe at their fourth-saying. Sometimes it doth signify a sepulchre or grave, \*because in old times men did superstitiously pray and worship at the tombes and monuments of their deceased friends, as if it had been in *Temples* or *Churches*: and in this sense may *Virgil* be understood,

<sup>d</sup> *Præterea fuit antiquo de marmore templum  
Conjugis antiqui.---*

Most commonly it doth signify a *Church*, or *Temple*: in which sense as often as it is used, it is \*said a *templando*, from beholding; because when we be in the Church, by lifting up our hearts by a divine contemplation, we doe as it were behold the great majesty of God:

## De Fano.

It is also called *Fanum*, a *sando*, from speaking: not from the speaking of the Priest, but because the people doe there speake unto God, and God againe to the people. <sup>f</sup> Some are  
of

<sup>f</sup> Turneb. ad-  
vers. lib. 3. c. 9.



of opinion, that *Fanum* in propriety of speech, signifyeth the Church-yard, or court before the Temple: *Templum* signifieth the edifice, or Church built.

*De Delubro.*

Thirdly, a Church was called *delubrum*, *Synechdochia*; because it was the principall part of the Church, namely the place where their Idol. God stood; & it was called *delubrum* from *Dens*: & as we call the place where the candle is put, *candelabrum* from *candela*. As concerning the outward forme of the Churches, some were uncovered, because they counted it an hainous matter to see those Gods confined under a rooffe, whose doing good consisted in being abroad; other some covered; some round, some other wise: but within they much resembled our great Churches. They had their *prondon*, or Church-porch, whereabouts they were wont to have the image of the beast *Sphinx*, which was so famous for his obscure riddles; so that by this Image was signified, that the oracles of the Gods, which were treated of within the Church, were darke and mysticall. They had certaine walks on each side of the body of the Church, which they called *por-ticus*; & in these places it was lawfull for them to merchandize, make bargains, or conferre of any wordly business; as likewise, in the *basilica* or Body it selfe. But their Quire, called *Chorus*, was counted a more holy place, set apart only for divine service. The manner of hallowing it, was as followeth: When the place, where the Temple should be built, had been appointed by the *Augures* (which appointing, or determining the place, they called *Effari templa*, & *sistere Fana*) then did the party, which formerly in time of need upon condition of helpe from the gods had vowed a Temple, call together the *Auspices*, which should direct him in what forme the temple should be built; which being known, certaine ribbands, and fillets were drawne about the *area*, or plot of ground, with flowers and garlands strewed underneath, as it was probable to distinguish the limits of this ground.



ground now to be hallowed. Then certaine souldiers marched in with boughs in their hands, and after followed Vestall Nuns, leading young boyes and maids in their hands, who sprinkled the place with holy-water. After this followed the *Prator*, some *Pontiffy* going before, who after the *area* had been purged by leading round about it a sow, a ramme, and a bull, sacrificed them, and their entralls being laid upon a turfe, the *Prator* offered up prayers unto the Gods, that they would blesse those holy places, which good men intended to dedicate unto them. This being done, the *Prator* touched certain ropes, wherewith a great stone, being the first of the foundation, was tyed; together with that, other chiefe Magistrates, Priests, and all sorts of people did helpe to pluck that stone, and let it downe into its place, casting in wedges of gold and silver, which had never been purified, or tryed in the fire. These ceremonies being ended, the *Aruspex* pronounced with a loud voyce, saying, *Ne remeretur opus, saxo, aurove in aliud destinato; id est*, Let not this work be unhallowed, by converting this stone, or gold, into any other use.

*De Aede sacrâ.*

Fourthly, a Church was called *Aedes sacra*, an holy house, because of the sacrifices, prayers, and other holy exercises performed therein. Although (as *Gellius* hath long since observed) every holy house was not a Church. For the proper note of distinction between a Church and a religious house was this, that a Church beside that it was dedicated unto some God, it was also hallowed by the *Augures*, without which hallowing the edifice was not called a Church, but a religious house: of which sort was the Vestall Nunnery, and the common treasury, called *Aedes Saturni*. We may adde hereunto this word *Pulvinar*,<sup>i</sup> which doth often signify a Church: the reason being taken from a custome amongst the *Painims*, who were wont in their Churches to make certain beds in the honour of their Gods, and those beds they called

*pulvinaria*

<sup>i</sup> Barthol. Latomus in Philippic. 4. am.



*Pulvinaria*, from *Pulvis*, because they were filled with dust or chaffe.

### De Sacrario.

Sometimes <sup>k</sup> *Sacrarium* signifieth a temple, though properly it signifyeth a Sextry or Vestry, nempe <sup>l</sup> *Sacrorum repositoryum*.

k Cic. pro Milone.

l Franc. Syl. vius in orat. pro L. Munat.

### De Lucis.

Neare unto divers Temples stood certaine groves dedicated to some of the Gods: they were called in Latine *Luci*, a non *lucendo*, as divers say, by the figure *aniphrasis*. But others are of a contrary opinion, giving it that name, because of the exceeding light it had in the night time by reason of the sacrifices there burnt.

### De Scrobiculo, Ara, & Altari.

The places upon which they sacrificed either in their religious houses, or their groves, were of three sorts; which we in English terme altars; but the Romans distinguished them by three severall names, *Scrobiculus*, *Ara*, and *Altare*.

#### De Scrobiculo.

<sup>m</sup> *Scrobiculus* was a furrow, or pit containing an altar in it, into which they powred downe the blood of the beast slaine, together with milk, hony, and wine, when they sacrificed to an infernall God.

m Alex. Gen. dier. l. 5. c. 26.

#### De Ara.

The second kind of altar was called *Ara*, either *ab ardendo*, because their sacrifices were burned upon it: or fro their imprecations used of that time; which in Greek they called *αἱρεσις*. It was made foure square, not very high from the ground, or as some say, close to the ground: and upon this they sacrificed unto the terrestriall Gods, laying a turfe of grasse on the altar: and this gave *Virgil* occasion to call them <sup>n</sup> *Aras gramineas*, id est, grasse altars.

n Virg. Aen. 12.

#### De Altari.

The third sort was called *Altare*, either because it was exalted, and lifted up some-what high from the ground; or because



cause he that sacrificed (by reason the altar was so high) was constrained to lift up his hands *in altum*, on high: and upon this they sacrificed unto their celestia<sup>l</sup> Gods only. °

° Serv. in Bucolic, eclog. 5.

*De Foco.*

*Focus* is a generall name, signifying any of these altars; so called à *fovendo*: because as *Servius* hath observed, that is *focus*, *quicquid fovet ignem, sive ara sit, sive quicquid aliud in quo ignis fovetur*. But in strict propriety of speech, it is taken for that altar on which they sacrificed to their domestick Gods, such as were their *Penates*, or *Lares*; as it appeareth

p Aulalar. act. by *Plautus*, p

2. Sc. 5.

*Hac imponentur in focum nostro Lari*

*Ut fortunatas faciat gnatae nuptias.*

Whence ariseth that Adage, *Pro aris & focis certare*, sounding as much as to fight for the defence of religion and ones private estate; or (as our English proverb is) for God and our Country; the proverb being in its originall, part of the oath that was administred unto the *Romane* Souldiers: and thus it is expounded by *Turnebus*.

q Turneb.

Ady. l. 10. c. 7.





## LIB. 1. SECT. 2.

*The generall divisions of the Roman people.*

## CAP. I.

*De populo Romano, & ejus prima divisione.*

**T**Hus having premised a short Treatise concerning the first situation of *Rome*, and the most remarkeable parts thereof, I purpose to proceed to the inhabitants, which Antiquity hath stiled Citizens of *Rome*. And *Erasmus* rather describing a *Romane*, then defining him, saith, a *Roman* was grave in his conversation, severe in his judgement, constant in his purpose: Whence *Cicero* in his Epistles often useth this phrase, *more Romano*, for *ex animo*, *id est*, unfainedly. <sup>a</sup> *Sigomius* rendring the definition of a *Roman* citizen, averreth that no man is *lege optimâ*, *id est*, in full and compleat manner a citizen of *Rome*, but he which hath his habitation there, which is incorporated into a Tribe, and which is made capable of city-preferments. By the first particle, those which they tearme *Municipes*; by the the second, those which they call *Inquilini*; and by the third, those which they call *Libertini* are in a man-

<sup>a</sup> Sig. de jure  
Rom. l. 1. c. 1.



ner disfranchised. But whereas *Sigonius* saith, that they must have their habitation at *Rome*, he would not be so understood, as if a *Roman* citizen might not remove his habitation to any other country: For, saith he, a *Roman* citizen may be as long absent from *Rome*, and the fields belonging to *Rome*, as he pleases, so that he suffer himselfe to be fessed and taxed in common with others toward the subsidy-payments, and denieth to be incorporate into another city. For *T. Pomponius* was a true citizen of *Rome*, though he dwelt at *Athens*. The *Roman* citizens being by these priviledges as by a more proper and peculiar character distinguished from other people; and being planted in the city according to the appointment of *Romulus* their King, it seemed good unto him to divide them into <sup>b</sup> Tribes, not taking the note of distinction only from the divers places they then inhabited, as we read that *Servius* the sixth King of *Rome* did, making therefore foure Tribes ~~romans~~, local, namely *Suburana*, *Palatinam*, *Collinam*, & *Esquilinam*, (which number of local Tribes in proceesse of time increased unto the number of 35.) but dividing them according to their severall nations, which at the first were *domati civitate, id est*, made free denizens of *Rome*: and (they being in number three. 1. The *Sabines*, which were named *Tacenses*, from their King *Tatius*. 2. The *Athanes*, called *Rhamenses* from *Romulus*. 3. Other nations promiscuously flocking out of other countries to the *Roman Asylum* placed in a grove called in *Latine* *Lucus*, which gave *Romulus* occasion to name them *Luceres*;) he made in all, three Tribes *jurati*, or nationall. After that *Romulus* had thus divided the whole body of the *Romans* into three Tribes, he then subdivided each Tribe into ten lesser numbers, which he called *Curia*, or parishes: and then followed five other divisions in respect of their different degrees, and callings: of which in their severall order.

<sup>a</sup> Sig de jur.

Rom. l. 1. c. 3.



CAP. 2.

*De prima divisione Romanorum, in Senatores five  
Patres, Patricios five Patronos, & Ple-  
beios five Clientes.*

THE first division of the *Romans* in respect of their degree and place, was this: The elder, wealthier, and gravest sort of *Romans*, were called sometimes *Patricij*, either because of their age and gravity; or because they had many children (for great priviledges were granted unto fathers of three children:) and sometimes *Patroni*, because they were as Patrons and fathers in helping and assisting the causes of the common people seeking to thē. The younger, poorer, and simpler sort were called, as they had relation to the *Patricij*, *Plebeij*, *id est*, the commons; as they had relation to their *Patroni*, they were named *Clientes*, *id est*, Clients: between whom there was such a mutuall, and reciprocall intercourse of love, & duty, that as their *Patrons* were ready to protect their Clients, so the Clients were bound with all faithfullnes to cleave unto their Patrons: & that not only to credit thē with their attendance in publike assemblies, but to disburse out of their own purses towards the bestowing of their daughters, the paying of publike mulcts, the giving of largesses in suing for offices, &c. Neither was it lawfull for either of them to inform, to depole, to give their voices, or to side with adversaries one against another without the guilt of treason: for which crime of treason they were *diis inferis devoti*. i. cursed to hell, and the law gave liberty for any man to kill them. Out of the *Patricij* did *Romulus* elect 100 counsellors to assist him in determining matters concerning the common weal: to these did *Romulus* after adde another 100. & *Tarquinius Priscus*, as divers Authors testify, made thē a compleat 300, which they called *Patres*, or

6 Lazius de  
Repub. Rom.  
lib. 12. cap. 3.



*Senatores*, and their sonnes *Patricij*. But in proceſſe of time the Commons alſo were eligible into a *Senators* place. Some ſay that *Tarquinius Priſcus* added the ſecond hundred to the Senate out of the Commons,<sup>d</sup> who were called *Senatores minorum gentium*, id eſt, *Senators* of the lower houſe. *Brutus* added the laſt 100, & made them 300: at what time they began to be called *Patres conſcripti*. And this accordeth with *Ioannes Roſa* in his Epitome of the Roman hiſtory, in his Ch. *de Regibus Romanis*: where he ſaith, that *Tarquinius Priſcus* did double the number of the *Senators*:  
<sup>d</sup> Martin. Phil. leucus in Cic. l. 1. ep. fam. 1.  
<sup>e</sup> Alex. Gen. dier. 1. c. 29. And likewiſe <sup>e</sup> *Alexander Neop.* ſaith, that *Brutus* made them compleat 300.

## CAP. 3.

*De ſecunda diſiſione Romanorum in tres ordines, Senato-  
 ium, Equeſtrem, Popularem, ſeu Plebeium.*

**A**Pter that through *Tarquinius ſuperbus* his tyranny, the very name of a King became odious to the *Romans*, not only the preſent King was exiled, but the Authority of a King ever after ward deteſted & perpetually abrogated: ſo that the office, which was before monarchicall, then was divided between two, called *Conſuls*: neither were they admitted for any longer ſpace then one yeare. At which time of change the *Romans* were divided into three orders, or ranges, 1. into *Senators*, of whom before, 2. into *Gentlemen*, called of the *Romans*, *ordo Equeſtris*: by which we doe not underſtand thoſe 300 *Ceteres*, id eſt, Penſioners, called ſometimes *Equites*: for that was a place of ſervice, this a title and token of gentility; who although they were inferior to the chiefe Senate, yet they were of great eſteem among the *Romans*: and although they might not weare the ſame robe as the *Senators* did; namely the *laticlavium*, or garment beſtudded with flouriſhings of purple ſilk in manner of broad naile heads; <sup>f</sup> yet they might weare the

<sup>f</sup> Roſin. antiq. lib. 1. cap. 17.



*The generall divisions of the Roman people.* 29

the *angusticlavium*, a garment differing from the former only in this, because the purple studs, wherewith it was purfied was narrow, & not so large as the *laticlavium*. They also at the time of their election received from the *Censors* an horse called by them *equus publicus*, because of the yearly allowance out of the common treasury to keep him: it was also called *equus militaris*, because of their service in warre (s they having their horses kept as well in peace as war.) They received also a gold-ring, <sup>h</sup>whereby they were distinguished from the poplacy: for it was not lawfull for any to weare a gold-ring under the degree of a Senator, or a Gentleman. The estimation and value of a Senators estate untill *Augustus* his time was *octingenta sestertia*, that is 6000<sup>l</sup>. <sup>k</sup> Of a Gentlemans estate, it was *quadringenta sestertia*, i. of our English mony 3000<sup>l</sup>. 3. The third order, or degree in the *Roman* Common-wealth was *Populus*, the Poplacy, or *Commons*, which should exercise trading, manure the ground, look unto the cattle, &c. Where by the way we must understand that the baser sort of the *Romans*, which did wander up and down, to & fro, not settling themselves to any vocation, were not contained within this division, for unto them there was no name vouchsafed, but according to the Poet they were *sine nomine turba*; or as *Livy* saith, *ignota capita*, men of no account, and therefore of no name.

C A P. 4.

*De tertiâ divisione in Nobiles, Novos,  
& Ignobiles.*

**T**His division was taken from the right or privilege of having Images; for they were accounted Noble-men, which had the Images of their Predecessours: Those which had their own Images only were called *Novi*, that is, late-coyned Nobles or upstarts. *Salust* useth this



word often in the disgrace of *Tully*, calling him *Nocturn & reptitum civem*, one that lately crept into the city. The third sort, called *ignobiles*, were those that had no images, neither of their predecessors, nor of themselves. Before we proceed, we must understand, that it was not lawfull for who would to have his own image if he so desired; for none might be thus priviledged, but those alone to whom the right of riding in a Curule chaire belonged; and to these the right of images was permitted, as well for the credit of their house, as to incite others to the like achievements, when they would consider the divers ceremonies used unto these images in an honourable remembrance of those whom they did represent. Whence it followeth, that *Ius nobilitatis* is nothing else but *Ius imaginis*: inasmuch that this word *Imago* doth oftentimes signify Nobility: and the right of having Images with them, was the same as the right of having armes with us. <sup>m</sup> The superstitious conceipt which the *Romans* had of these images was such, that upon festivall dayes and all occasions of joy and mirth, those images should be beautified and adorned with garlands and flowers, upon occasion of griefe and mourning; they would take from them all their ornaments, making them in a manner to partake of their mourning. Some they kept in their private closets, <sup>n</sup> others they exposed to the publike view of passengers, placing them in the gates of their houses together with the swords, targets, helmets, ship-beakes, and such other spoyles as formerly they had taken from their enemies; <sup>o</sup> which it was not lawfull for any, though they bought the house, so much as to deface. Yea they were so annexed to the freehold, that they passed alwayes in the conveyance of the house. The matter of which they were commonly made, was wax, as that of *Juvenal* doth sufficiently witnesse, *P Tota licet veteres exornent undiq; cera*  
*Atria, nobilitas sola est atq; unica virtus.*  
 Againe, we may not thinke that they made in wax a compleat

<sup>l</sup> Sig. de jur.  
Rom. l. 2. c. 20

<sup>m</sup> Alex. Gen.  
dier. l. 5. c. 24.

<sup>n</sup> Barth. Lato.  
in Verrin. 7.

<sup>o</sup> Plin. 25. 2.

<sup>p</sup> Iuv. Sat. 8.



pleat statue or a full portraiture of the whole body, but only from the shoulders upward.

C A P. 5.

*De quarta divisione Romanorum in Optimates & Populares.*

**T**His fourth division of the Romans hath been occasioned through the faction & siding of the citizens. Those (according to the description of *Tully*) were *Optimates*, *id est*, the best citizens, who desired their actions might be liked, and approved by the better sort: Those *Populares*, *id est*, popular, who through desire of vaine-glory, would not so much consider what was most right, as what should be most pleasing unto the populacy. So that here by this word *popular*, we understand not the Commons, as formerly we did, but be he Senator, Gentleman, or inferior, if he doe more desire that which shall be applauded by the major part, then that which shall be approved by the better part, him the Romans called *Popular*, *id est*, such a one, that preferreth the popular applause before the right.

*q Cic. pro  
Sex. 10.*

*r Geor. Me-  
rula in orat.  
pro ligario.*

C A P. 6.

*De quinta & ultima divisione Romanorum, in Libertos, Libertinos, & Ingenuos: item de Manumissione.*

**T**He difference of the freedoms in the City of Rome hath given occasion of this division: For he, or she that had served as an *Apprentice*, and afterward was manumized, was named *Libertus*, or *Liberta*. The sonne whose father and mother were once apprentices, was called *Libertinus*; but that son whose father and mother were both *Libertines*.

*bertines*



Justin. inst.  
l. i. tit. de In-  
geniis, vid.  
Franc. Sylv. in  
Catinar. 4.

*bertines*, or both free-born, yea whose mother onely was free, was called *Ingenuus*, id est, free-born. But after *Appian* *Cæcus* his Censorship, then began *Liberti* and *Libertini* to signify one & the same degree of freedome: so that *Liberti* and *Libertini* were taken for those which served for their fredome, & *Ingenui* were takē for those which were free-born, whether their parēts were *Liberti* or *Libertini*. Here is occasion given us to consider the manner of their freedome, & such ceremonies which belonged thereunto. The freedome of the city of *Rome*, was three wayes obtaind: 1. By *Birth*, both, or at least one of the parents being free; & such were called *cives originarij*. 2<sup>o</sup>. By gift and *cooptation*, when the freedome was bestowed on any stranger, or nation, and they were tearmed *civitate donati*: and so were ade that *Cæsar* took in whole nations into the freedome. Lastly by *manumission*, which was thus: when as the servant was presented by his master before the *Consull* or *Prator*, the master laying his hand upō his servants head, used this form of words, *hunc liberum esse volo*, and with that turning his servant round & giving him a cuffe on the eare, he did *mittere servum ē manu*: the *Prator* then laying a certane wand or rod called *Vindicta*, upon the servants head, replied in this manner, *Dico eum liberum esse more Quiritū*. Then the *Lictor* or Sergeant taking the wand did strike therewith the servant on the head, and with his hand he struck him on the face and gave him a push on the back, and after this he was registred for a freeman. Moreover the servant having his head shaven purposely at that time, received a cap as a token of liberty; whence *ad pileum vocare aliquem*, is to set one at liberty, as likewise *vindicta liberare*.<sup>n</sup> According to *Tertullian*, at this time of their manumission the servants received from their masters, a white garment, a gold ring, & a new name added unto their former. Whose authority if we admit, then the having of three names among the *Romans* was rather a signe of *Freedome* then of *Nobility*. And that of *Juvenal*,

Tan.

P. Ramus in  
orat. pro C.  
Rabirio.

■ Tert. de re-  
sur. carn.



*Tanquam habeas tria nomina---*

Is not to be expounded, as if you were a noble man, but as if you were a free-mā. Here we may also cōsider the two leuell kinds of servants: the first were called *servi*, and they could never attaine to any freedome, without the consent of their master: \*For those that were thus *servi*, were cōmōly captives, either bestowed as a reward upon this or that souldier, or bought *sub coronā*, or of other Citizens that had gotten the one of those two former wayes: the second were called properly *¶ nexi & addicti*, because though they were free, yet by reason of their debt, *addicebantur*, that is, they were delivered up unto their creditors by the *Prætor* to worke out the debt, so that after the paiment thereof, either by mony or worke, they did recover their liberty: whence they were said *¶ nomina sua liberare*, when they payed the debt: as on the contrary they were said *nomina facere*, when they became in debt. And their creditors whē they sued for the payment, were said *nomina exigere*: *nomen* in these and the like places signifying as much as *debitū* a debt, \*because the creditors did use to write downe their debtors names. *¶* The manner of suing for their debts was as it followeth; the debt being confessed, thirty dayes were allowed the debtor for the payment of the mony (those dayes of respit they called *dies iustos, velut iustitium quoddā, id est, iuris inter eos interstitionem & cessationē.*) The mony not paid, the debter was delivered up as a servant to his creditor, yea he was sometimes cast into prison, & unles the creditor were in the mean time compounded with, he remained three-score daies in prison, & three market-daies one after the other being brought before the Iudge, the debt was solemnly proclaymed, and upon the third market-day, he was either sold to forrainers for a slave, or else was punished with death, each creditor being suffered if he would, to cut a piece of his dead body instead of payment.

x Dion. Halicar. lib. 4.

v Sig. de jud. lib. 1. cap. 31.

¶ Mica. Tor. ita in orat. pro P. Quintio.

a Fr. Sil. in epi. virorum illust. l. 1. ep. 6  
b Vid. Cæsar. Rhodig. l. 12.

cap. 20.  
Item A. Gel. lib. 3. cap. 1.









## LIB. 2. SECT. I.

*The generall divisions of the Roman Gods.*

## CAP. I.

*De Dijs.*

**T**Hough *Satan* had much blinded the hearts of men in old time, yet was not the darknesse of their understanding so great, but that they did easily perceive, & therefore willingly acknowledge, that there was some supream governour, some first mover, as *Aristotle* saith, some first originall of all goodnesse, as *Plato* teacheth. So that if any made this question, whether there was a God or no? he should be urged to confesse the truth of that, rather *argumento bacillino, quam Aristotelico*, rather with a good cudgell, then with any long dispute. But as they were most certain, that there was a God, so were they againe very blind in discerning the true God: and hence hath been invented such a tedious catalogue of Gods, that (as *Varro* averreth) their number hath exceeded thirty thousand, and proved almost numberlesse. Wherefore I shall omit to make any distinct treatise of the Gods, intending *obiter* and by the way to speake of them which either had Priests, or sacrifices instituted for them. Only, I purpose to shew what is under-



stood by those generall distinctions of the Gods, which diuers authors have used, *Tul. lib. 2. de legibus* reduceth all unto three heads, Gods celestiall, which *Varro* calleth select, and others have styled Gods *maiorum gentium, id est*, of the greater nations, because their power was greater then the others, <sup>a</sup> *Alexander Neopolitanus* saith, that twelve of these were the *penates*, which *Aeneas* did take forth with him at the destruction of *Troy*. *Ovid* calleth them *Deos nobiles*, noble Gods: others call them *Deos consentes, quasi consentientes*, because *Iupiter* would doe nothing without the consent of all. *Ennius* hath delivered them in this distich,

*Iuno, Vesta, Minerva, Ceres, Diana, Venus, Mars,  
Mercurius, Jovis, Neptunus, Vulcanus, Apollo.*

The second sort of Gods were called *Semidei, id est*, Demi-gods; also *Indigites, id est*, Gods adopted, or canonized; men deified. For as the select Gods had possession of heav'n by their owne right; so these Gods canonized had it no otherwise then by right of donation, being therefore translated into heaven, because they lived as Gods upon earth: but because their merit was inferior, & could not parallel the deserts of the Gods select, therefore were they called Gods of inferiour note. <sup>c</sup> *Servius* would have these called *Divi*: observing this difference between *Dii* and *Divi*, that *Dii* should signify those which had been Gods perpetually, but *Divi* should signify men made Gods, though commonly they are used one for another. Whence they called all their Emperours *Divi*, because for their deserts they thought them worthy to be Gods. Now the <sup>d</sup> manner how a man became deified was this: The party to be canonized being dead, a pile of wood was made in forme of a great tent, or tabernacle, with three other lesser tabernacles one upon top of another, the lowermost having in it dry combustible matter, but on the out-side adorned richly with gold; Ivory, and painted tables: hither the dead corps was to be carried with great solemnities, the Senate, the Gentlemen, & all the

<sup>a</sup> Alex. Gen.  
dier. l. 6. c. 6.

<sup>b</sup> Servius in  
lib. Georgic.

<sup>c</sup> In *Aeneid*.  
lib. 5.

<sup>d</sup> Rosin. Ant.  
l. 3. c. 18. vid.  
Hospinian. de  
orig. Christ. F.  
p. 21. Vid. ex-  
emplum hu-  
jus consecra-  
tionis in Se-  
veri sepultura  
Herodian. lib.  
4. p. 298.



the chief magistrates going before, with hymnes and songs, and all kind of honour, which was to be performed even to the Gods themselves. He being in this manner brought, and laid within the second tabernacle, the fire was kindled, by him who was to succeed in the Empire, for I find none canonized but only Emperours at their decease, forthwith at the kindling of the fire, a living Eagle was let fly from the top of the tabernacle which was supposed to transport the soule of the dead body into heaven, insomuch that ever after he was canonized amongst the Gods, & worshiped as a God. And because they were thus turned into Gods, some have called them *Deos animales*, *quoniam anima humane verterentur in Deos*. This canonization was by the Greekes <sup>e Servin Æn.</sup> termed *ἀνθεσμός*, by the Latines *consecratio*. The third <sup>lib. 3.</sup> sort were those morall vertues, by which as by a ladder men climbed into heaven: and therefore did men stile them Gods, because by their meanes men became deified. Late writers perceiving that all the number of the Gods could not bee reduced into these three heads, have added a fourth sort which they call *Semones*, *quasi semi homines*, <sup>f Rosin. ant.</sup> because ancient writers, as *Rosinus* hath observed, called <sup>lib. 2. c. 19.</sup> men *hemones*, not *homines*, in which point I shall willingly condescend unto him; but I shall leave to the judgement of others, to determine how justly he hath restrained the Gods *minorum gentium*, of the lesser nations, onely unto this last *classis*: whereas my opinion is, that the demy-Gods, the morall vertues which have beene stiled Gods, and these *Semones*, may all of them be called Gods of the lesser nations standing in opposition with the Gods select, which are called Gods of the greater nations. But that wee may understand what is meant by these *Semones*, we must remember that by them are signified unto us not those Gods which doe appertain to man himself, but to the necessities of mans living, his victualls, his cloathing, and the like: not to the being of a mā, but to the well-being of him: of which sort is *Salus*, *Fortuna*, with others. We read likewise of other names



given in common to divers Gods, not as opposite members of a division, but as notes of distinction drawne from the diversity of helpe, which they severally did afford unto man. In this respect some were called *Dij patrii*, or *tutelares*, such as had undertaken the protection of any City or Towne: which opinion had sometimes been entertained by our English. mē, & thence have risen these & the like speeches, *St. George* for England, *St. Denis* for France, *St. Patrick* for Ireland, &c. And the *Romans* being fully perswaded of the truth thereof, whensoever they went about to besiege any towne, by certaine enchantments or spells they would first call out these Tutelar Gods, because they deemed it a matter impossible to captivate the city, as long as these Gods were within; or at least they thought it a crime unexpiable to take the Gods as prisoners: and least other nations might use the same meanes in besieging *Rome*, therefore as divers Authours have thought, the true name of the *Roman* City was never knowne, least thereby the name of their Tutelar God might be descryed. Others, namely the *Tyrrians* have tyed fast their God *Hercules* with a golden chaine, thereby the more to secure themselves of his residence among them.<sup>b</sup> Others have been called *Dii communes*, namely *Mars*, *Bellona*, and *Victoria*, because in time of warre they are not bound to either side: but sometimes they helpe one side, and sometimes the other. And as they supposed some Gods to have the protection of whole countries, so did they believe that others had the charge of particular men; and that so soone as any man was borne, two spirits did presently accompany him invisibly, the one termed the *bonus Genius*, or good Angel, perswading him to that which should be good: the other called the *malus Genius*, or evill Angell, tempting him to that which should be hurtfull: insomuch that they thought all the actions of mē to be guided by these Angels called *Genii*; so that if any misfortune befell a man, they would say that the matter was enterprised *Dii iratis*, *id est* our *Genius* being displeased with us.

<sup>g</sup> Sylvius in  
epist. virorum  
illustrum.

<sup>b</sup> Alex. Gen.  
dicr. l. 6. c. 4.

Virgil



Virgil calleth these bad Angels *Manes*, as it appeareth by that, *Quisq; suos patitur manes*, id est, Every man hath his evill Angell, id est, some misfortune. These *Genii* were thought to be a midle essence between men & Gods: they are therefore called *Genii*, because they have the tuition of us so soon as we are *geniti*, id est, born. It is most certain that old authors used *Geno*, for *Gigno*: whence <sup>i</sup> Tully saith, *Si mihi* Cic. lib. 2. de *bi filius genitur*; & <sup>k</sup> Varro, *antequam genat filiquas*: although orat. every place had also his *Genius*, as hereafter shall appeare. <sup>l</sup> Varro Rei. Rust. l. 1. c. 31. This opinion was the more confirmed by a visio which appeared unto <sup>1</sup> Brutus in Asia neer unto the time of his death, Plut. in Bruc. for Brutus watching upon a certain night in his pavilion, the candle being neere spent, saw a fierce tragicall person appear unto him, somewhat bigger then a man: & he presently being of an undaunted spirit, demanded whether he were a God or a man? To whom the visio answered, *Brutus*, I am the evill *Genius* which haüteth thee, thou shalt see me at the City *Philippi* again; and the same visio appeared unto him, as he was fighting at *Philippi*: which was the last fight that ever he fought. And because *Iuno* was wont to be invocated in the time of Child-birth, therefore many have thought that every mā hath not his two Angels, but one Angel & *Iuno* to observe him: but it is agreed upon by best authors, that as the Angels or spirits which did attend men were termed *Genii*: so those which guarded womē were termed *Iunones*. This *Genius*, as often as he is understood for the good or evill Angell, which hath charge of a mans body, is painted in forme of a man, as we read did appeare to Brutus; though sometime he is painted as a young boy, sometime as an old decrepit man, <sup>m</sup> but alwayes with a crowne of plane-tree, <sup>n</sup> Rosin. ant. lib. 3. cap. 14. which therefore was called *Genialis arbor*: in the right hand he held a platter over an altar garnish'd with flowers, in the left he held a scourge hanging down. The sacrifice that was performed unto the *Genius* was wine & flowers: whereupō (as if by wine and fragrant odors were signified all kind of pleā-



given in common to divers Gods, not as opposite members of a division, but as notes of distinction drawne from the diversity of helpe, which they severally did afford unto man. In this respect some were called *Dij patrii*, or *tutelares*, such as had undertaken the protection of any City or Towne: which opinion had sometimes been entertained by our English. mē, & thence have risen these & the like speeches, S. George for England, S. Denis for France, S. Patrick for Ireland, &c. And the *Romans* being fully perswaded of the truth thereof, whensoever they went about to besiege any towne, by certaine enchantments or spells they would first call out these Tutelar Gods, because they deemed it a matter impossible to captivate the city, as long as these Gods were within; or at least they thought it a crime unexpiable to take the Gods as prisoners: and least other nations might use the same meanes in besieging *Rome*, therefore s as divers Authours have thought, the true name of the *Roman* City was never knowne, least thereby the name of their Tutelar God might be deferyed. Others, namely the *Tyrians* have tyed fast their God *Hercules* with a golden chaine, thereby the more to secure themselves of his residence among them. <sup>h</sup> Others have been called *Dii communis*, namely *Mars*, *Bellona*, and *Victoria*, because in time of warre they are not bound to either side: but sometimes they helpe one side, and sometimes the other. And as they supposed some Gods to have the protection of whole countries, so did they believe that others had the charge of particular men; and that so soone as any man was borne, two spirits did presently accompany him invisibly, the one termed the *bonus Genius*, or good Angel, perswading him to that which should be good: the other called the *malus Genius*, or evill Angell, tempting him to that which should be hurtfull: insomuch that they thought all the actions of mē to be guided by these Angels called *Genii*; so that if any misfortune befell a man, they would say that the matter was enterprised *Dii iratis*, id est, our *Genius* being displeased with us.

g Sylvius in  
epist. viorum  
illustrum.

h Alex. Gen.  
dicr. l. 6. c. 4.

Virgil



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<sup>i</sup> Cic. lib. 2. de orat.  
<sup>k</sup> Varro Rei. Rust. l. 1. c. 31.

<sup>l</sup> Plut. in Brut.

<sup>m</sup> Rosin. ant. lib. 3. cap. 14.

plea.



pleasures) certain proverbiall speeches have been occasioned: as when we see a man given much to his pleasure, and dainty feeding, we say he doth *indulgere genio*, id est, pamper or make much of his *Genius*: on the contrary, he that is abtemious and debarreth himselfe of his pleasure & dainty feeding, is said *defraudare genium*, to defraud his *Genius*: and  
 \* Vid. Erasim. *genialis* signifieth jocant or pleasant. <sup>n</sup> It was also the custom after meales to have a cup passe round the table, much  
 adag. like unto our *poculum charitatis*, & it was called *poculum bo-  
 ni genii*.<sup>o</sup> The *Gracians* had a like custome, whence that cup  
 lib. 28. cap. 6. was called by them, *ἡρώας ἀγαθῷ δαίμονι*. But the reason why they would not sacrifice unto their *Genius* by killing some host, as they did to their other gods, was, because they judged it unfit to deprive any creature of his life upon that day, when they first began their life (for this sacrifice was performed yearly by every one upon his birth-day.) *Horace* notwithstanding doth more then intimate the killing of a young pig in that sacrifice,

--- *cras Genium mero*

*Placabis, & porco bimestri.* *Hor. lib. 3. Od. 17.*

The other *Genius* which is supposed to have chiefe power over high waies & places, being therefore called *Genius loci*, was pictured in form of a snake, in which forme *Virgil* faigned him to have appeared to *Aeneas*, when he performed the funerall rites due unto his father *Anchises*, *Aeneid. l. 5.*

--- *Adytis cum lubricus anguis ab imis*

*Septem ingens gyros, septena volumina traxit.*

And *Verfius*,

Sat. 1.

*Pinge duos angues, pueri sacer est locus, extra  
 Meiste, id est, duos Genios.*

p Franc. Sylv.  
 in orat. pro  
 Sext. Rosc.  
 Am,

Another sort of Gods was supposed to have the keeping of mens houses: P which they painted in forme of a dog because those to whom the charge of houses is committed ought to resemble dogs, that is, to seem fierce and angry towards strangers, but gentle and kind to those of the house hold:



hold other properties wherein these *Lares* doe resemble dogs, are recited by *Ovid*, *Faſt.* 5.

*Servat uterq; domum, domino quoq; fidus uterq; eſt,*

*Compita grata Deo, compita grata canis*

*Exagitant & lar, & turba Diana fures,*

*Pervigilantq; lares, pervigilantq; canes.*

They were named *Lares*; and becauſe of the charge they had over mens houſes, this word *Lar* is ſundry times taken for an houſe it ſelfe, as *parvo ſub lare*, *Horat.* in a litle cottage; *homo incerti laris*, *id eſt*, a man that hath no houſe to dwell in. *Sen. in Med.* And the cuſtome in ſacrificing unto them, was to eat up all whatſoever was left at the offering, for they thought it an hainous matter to ſend any of that ſacrifice abroad, either among their friends, or the poore: and thereupon when we ſee a glutton leave nothing in the plate, not ſo much as the curteſie-morſell, we ſay *Lari ſacrificat*, *id eſt*, he ſacrificeth to his houſe-hold God.

F

LIB.







## LIB. 2. SECT. 2.

*Of the Roman Preists, with some  
particular Gods.*



*F* *Annus* the ancientest of all the Kings in *Italy* was the first that brought any forme of Religion into *Italy*. Hee consecrated groves, gave names unto Cities, erected Temples, ordained sacrifices &c. from whom the Churches, as some say, were named *Fana*. But after *Faunus*, *Evander* comming out of *Arcadia*, and afterward being King of *Latium*, he instituted, and appointed many other ceremonies, which before were unknowne to the Latines. After him *Aeneas* comming from *Troy*, taught many of the *Trojan* ceremonies: by whose examples *Romulus* and *Numa* were incited to adde many other kindes of holy rites, and at length reduced their whole religion into a certaine order, especially *Numa*, who that he might gaine the more credit and authority to his new-invented superstitions feigned that hee had conference about them every night with the Goddesse *Egeria*. My intent therefore is, to speake first of the God, in whose honour these holy rites were performed, and then to descend unto the Preists, which were to performe them, shewing withall the ceremonies they used in the performance.

Lib. 2. de fall.  
rel. l. 1. c. 2. 2.

CAP.



C A P. I.

De Pane Lycao, five Iuno: de Lupercis,  
& Lupercalibus.

**P**An was supposed to be the God of the sheep-heards, and is<sup>a</sup> thus described: hee is pictured naked, having Hornes in likenesse of the Sunne beames, a long beard, his face red like the cleare ayre, in his brest the star *Nebria*, the neather part of his body rough, his feet like a Goat: in one hand he holdeth a Pipe, in the other a shepheards crook, and alwaies is imagined to laugh. <sup>b</sup> Hee was worshipped first in *Arcadia*, and there called the God *Pan Lycaeus*, but afterward he was had in great esteeme at *Rome*,<sup>c</sup> and in the honour of him certaine sacrifices, and games called *Lupercalia* were solemnized by the *Romans*.<sup>d</sup> There he took the name *Inuus*, or as some say, *Junus*. Concerning the time, whē these sacrifices were to be performed; it was upō the<sup>e</sup> unfortunate daies of the moneth *February*, which hath his name *a februario*, from purging: whence the feast or game is as a purification; though the Latine word signifieth as much as a feast of Wolves, in a memoriall that *Romulus* and *Remus* were nursed by a shee-woolfe. This seemeth very probable, because the Preists, which were called *Luperci*, beganne their course at the foot of the mount *Palatine*, called by the *Romans* *Lupercal*, id est, the place where the Woolfe nursed<sup>f</sup> *Romulus*. The ceremonies were these: the hoast (being two Goats) was to be slain; & two Noble mens sonnes were to be present, whose fore-heads being blooded with the knives of them that had slaine the Goats, by and by were to be dried up with wooll dipped in milk. Then the young boyes must laugh immediatly after their foreheads were dry. That done, they cut the Goats skins, & made thongs of them, which they took in their hands, and

<sup>a</sup> Servius in  
Virg. Ecl. 2.

<sup>b</sup> Fenest. de  
sacerd. cap. 1.

<sup>c</sup> Fenest. ib.  
<sup>d</sup> Pomponius  
Lætus de Sa-  
cerdot. cap. de  
Luper.  
<sup>e</sup> Plutarch. in  
Romulo.

<sup>f</sup> Plutarch. in  
Romulo.



ran with them all about the City stark-naked (saving they had a cloath before their privities) and so they struck with those thongs all they met in the way. The young wives did never shun them at all, but were well contented to be stricken with them; beleiving it helped them to be with child, and also to be easily delivered. Moreover it is to be noted that a dog was sacrificed at this time, because there is a naturall antipathy, or contrariety of nature, between the dog and the wolfe: whereby *Romulus* thought to testify his gratefulnesse unto the wolfe for her paines in nourishing him. The reason why the Priests ran up & down the streets naked, was, because that *Pan* the God of this sacrifice was painted naked. As the feast, so also the place from whence they came, and likewise the Priests had their names à *Lupa*, which signifieth a wolfe. Some Authors have observed three sorts of the *Luperci*, some called *Fabiani*, some *Quintiliani*, from *Fabius* and *Quintilius* their governours: the third sort, which *Rosinus* affirmeth to have been added in the honour of *Iulius Caesar*, I cannot finde according to his quotation in *Suetonius*. But thus much *Suetonius* saith in another place, namely, that *Augustus Caesar* when he was cheife Pontify did restore these games againe being formerly abolished.

<sup>a</sup> *Rosin. ant.*  
3. cap. 2.

<sup>b</sup> *Sueton. in*  
*Aug. ult.*

## CAP. 2.

*De Cerere, & Sacris ejus.*

*Ceres*, otherwise called *Eleusina*, was honoured first among the *Gracians*, after ward among the *Romans*, as a Goddesse, which first taught men the skill of husbandry.

*Prima Ceres ferro mortales vertere terram*  
*Instituit. Virg. Georg.*

Whence she is sometimes metonymically taken for corne, as  
credenda



*Of the Roman Priests with some particular Gods. 45*

*credenda Ceres arvis, Ovid.* It is seed time. She is called *Ceres*,<sup>i</sup> *quasi Geres, a gerendis frugibus*, from bearing fruit; be-<sup>i</sup> Cic. lib. 3. de  
cause, as some say, by *Ceres* is understood sometimes the<sup>nat. Deor.</sup>  
earth it selfe, whence also *ἡ μήτηρ* being the Greek name of  
*Ceres* is said *quasi ἡ μήτηρ, id est, the earth*, which is the com-  
mon mother of us all.<sup>k</sup> She is painted in the habit of a Ma-<sup>k</sup> Rosin. ant.  
trou wearing a garland of corne, sometime sorrowfull with  
lib. 2. cap. 11.  
a lampe in her hand, as if she were seeking out her daughter  
*Proserpina* carried by *Pluto* into hell; and sometime with a  
handfull of corne or poppy-seed. Vpon the fift of the Ka-  
lends of April the Romans were wont to performe sacrifici-  
ces unto her, which they called *sacra Grata, id est*; the Græ-  
cian sacrifices, as likewise they tearmed the cheife woman  
which did performe them, *sacerdotem Græcam, id est*; the  
Greek Ministresse, because they were translated into Rome  
out of Greece by *Evander*. The time of their solemnities  
was at the dawning of the day, and the Priests, which were  
only women which ran up and downe with lamps in their  
hands in manner of mad women; into whose Temple none  
that was guilty of any fault committed might enter: whose  
mysteries were to be buried in silence, and by no meanes to  
be blabbed abroad. And as it is to be supposed, that was the  
reason why all wine was forbad in this sacrifice. So that  
hence<sup>l</sup> we say *Cereris sacrificat* he sacrifices to *Ceres*, when  
<sup>l</sup> Plautus in  
he makes a feast without wine. Aululana.

C A P. 3.

*De Potitiis, & Pinariis, Herculis sacerdotibus.*

**H***ercules* had an Altar erected in the memoriall of him  
neare unto *Tiber* by *Evander*, upon occasion of the  
heards-men's complaint brought unto *Evander* of him,  
whom they accused to have slaine their cheife heards-man  
*Caene*, the History being<sup>m</sup> thus; *Hercules* after his con-<sup>m</sup> Ser. Æn.  
quest.  
lib. 8.



quest over *Geryon* brought away with him certaine goodly Oxen, and as well to rest himselfe, as to pasture his Oxen, he laid him down to sleep in a green feild neere the river *Tyber*. In the mean while a certain heards-man called *Cacus* happened to come that way, and perceiving *Hercules* to be in a sound sleep, he stole away two of his Oxen, which hee hid in a cave, or hollow rock, pulling them in by the taile backward, thinking that *Hercules* when hee should look his Oxen & see the print of their footsteps, would easily beleive that his Oxen had rather gone out from that rock than into it, as indeed he did for a time beleive: but afterwards by the bellowing of the Oxen within answering their fellowes without, *Hercules* entred the rock, & finding the theife *Cacus* there with his Oxen, he killed him, by reason of which murder he was brought before *Evander*; and after a while known to be the *Hercules*, of who the Prophetels *Garmentis* had foretold unto *Evander*, that he should be a God: where-upon *Evander* presently saluted him by the name of *Hercules* the son of *Iupiter*, & in honour of him caused an Altar to be built there in that place: upon which yearly was to bee offered up an Heifer which had never borne yoke; and that this sacrifice might be had in the more esteem, two Noblemen well stricken in yeares, and of good repute among the Romans, one of them being called *Potitius*, & the other *Pinaris* were appointed as the Preists to performe these sacrifices; from whom ever after *Hercules* his Preists were called *Positii*, and *Pinariis*. Where by the way we must observe, that *Pinaris* was not the sur-name of this Noblemā, but a name added unto him, intimating his & his successours punishment for not comming soon enough according to the time appointed by *Hercules*. For as divers writers testify, the entralls of the hoast were almost eaten up by the family of *Potitius*, before *Pinaris* & his family came, & in punishment of their negligence *Hercules* enjoyned the *Pinariis* never after to eat of the entralls, giving the this name *Pinariis* at that



Of the Roman Priests with some particular Gods. 47  
that time, from the Greek word *grain* signifying hunger.

C A P. 4.

*De Fratibus Arvalibus.*

**T**His Colledge or company of Roman Priests may bee Englished the *Arvall fraternity*: the number of them being twelve, eleven of them naturall brothers, sons to *Acca Laurentia*, *Romulus* his foster-mother; ° for which respect *Romulus* yeelded himself her adopted son, instituting this order in the honour of *Ceres & Bacchus* for the plenty of wine and corne, unto whom they did offer up certain sacrifices called *Ambaruales hostia*, *quod antequam mactarentur ter circum arva ducebantur*, according to that of *Virg. Georg. Terg, novas circum felix eat hostia fruges*, that they being therewith appeased might the willinger cause the earth to fructify, and added himselfe to the former eleven as the twelfth Priest, or brother to help in the performance of this publike sacrifice: moreover beside the performance of this sacrifice, these twelve were appointed *arbitrators*, or Iudges to decide controversies concerning land-marks and bounds of the field, from whence they tooke their name *fratres aruales*. Their sacerdotall ornament was a garland of wheat bound up with a white ribband, this being, as *P. Pliny* writeth, the first Crown, or garland amongst the Romans.

o Feneft. de Sacerd. c. 3.  
Hosp. de orig. Monach. c. 10.  
P. Plin. lib. 17. cap. 2.

C A P. 5.

*De sexaginta Curionibus.*

**A**fter that *Romulus* had divided the whole body of the *Romans* into three Tribes, or Wards, and subdivided those three Wards into thirty parishes, called *Curia*, he ordained out of each *Curia* two parish-Priests or Curates called *Curiones*, or *Flamines Curiales*; which were pub-



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*Of the Roman Priests with some particular Gods.* 47  
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pub-



¶ Dion. Hal.  
lib. 2.

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lib. 2.

publicly to offer up sacrifice in the behalfe of the people. Neither was every one equally capable of this honour of Priesthood, but he was to be at the least fifty yeares old, of a life unspotted, and a body unmaimed. And over all these there was one which had cheife rule, and therefore was called *Curio Maximus*, the Bishop, or cheife Prelate: and these sacrifices were called *Curionia*. Their sacrifice being ended, each parish had a feast in a common hall built for that purpose: it was called *Domus Curialis*, and sometimes *Curia*.

# CAP. 6.

## De Auguribus, & eorum Collegio.

**A**Mongst other kindes of Fore-tellers, we read of three principally used in former time, namely, *Aruspices*, *Auspices*, & *Augures*: all which we English Sooth-sayers, though the Latin words do import a main difference, worth our observation: all are alluded unto by *Ovid*,

*Ovid. met. l. 1.  
Eleg. 8.*

*Hoc mihi non ovium fibra, tonitrusve sinistri,  
Linguae servata pennae dixit avis.*

The *Aruspices* did divine, or foretell things to come by beholding the entralls of Beasts sacrificed: whence they had their name, *ab aras inspiciendo*, *sic* beholding the altars. The *Auspices* did foretel things by beholding the flight of birds; so that *Auspices* are said *quasi avisfices*, *ab aves aspiciendo*. The *Augures* did divine from hearing the chatting or the crowing of birds: whence they are called *Augures ab avium garritu*, from the chirping & chatting of birds. These two last kinds of soothsaying have occasioned these, and the like phrases, *bonis avibus*, or *auspiciis*, with good luck, *malis avibus*, *id est*, with ill luck: and because they would beginne nothing *inauspicato*, *id est*, without the counsell of the *Augures*, hence *Auspiciari rem* hath been translated, to begin

¶ Fr. Sylv. in or-  
rat. pro Ci-  
ventia.



gin a matter. The Colledge of the *Augures* at Rome was first appointed by <sup>a</sup> *Romulus* himselve being very expert in soothsaying, there being at the first but three, namely one of each Tribe: (The word *Augur* being not taken in his owne proper sence and signification above mentioned; but generally, by the trope *Synechdoche*, signifying all kindes & sorts of divining whatsoever, whether it were by observing the entrails of beasts, the flying, schreeching, & chatting of birds, or thundring, or lightaing in the heaven, or marking the rebounding of crums cast unto birds, which kinde of divining was called *Tripudium*.) \* *Servius Tullius* the sixt Romane King, when he divided *Rome* into foure locall Tribes, *id est*, Regions, or quarters, then did he adde the fourth *Augur*, all of them being elected out of the *Patricii* or the Nobility of Rome. In proceſſe of time *Quintus*, & *Cneus Egnilius* being chosen *Tribuni plebis*, *id est*, protectors of the Commons, obtained that five other *Augures*, should bee chosen out of the commonalty and added unto the former foure: at which time the Senate decreed that the Colledge of *Augures* should never exceed the number of 9. \* Notwithstanding *Sylla* being *Dictator* added 6 more, inſomuch that their Colledge encreased to the nūber of 15. the eldest of which was called \* *Magister Collegii*, the Master or *Rector* of the Colledge. The *Augures* excelled other Preists in <sup>b</sup> this respect, because if any of them had been convinced of any hainous crime, he did not looſe his office, neither was any other ſubrogated into his roome, although the Roman custome was that if any other Preist had cōmitted any notorious offence, he should presently be discharged of his office, and another chosen in his place. <sup>c</sup> The māner how the *Augur* did observe was this: He ſate upon a Castle, or a Towre, the aire being cleare and faire without clouds or raine, holding a crooked staffe (called in Latine *Litum*) in his hand, where ſitting in his soothsaying robe, called *Lana*, & in Greeke *χλαίνα*, τὸ θερμαίνον, *a calefaciendo*, from heating, because it was well

<sup>a</sup> Pomp. L. x. tus cap. de Augur.

<sup>x</sup> Roſin. ant. lib. 3. cap. 8.

<sup>y</sup> Roſin. ibid.

<sup>z</sup> Roſin. ib.

<sup>a</sup> Alex. Gen. dier. l. 5. c. 19.  
<sup>b</sup> Alex. ib.

<sup>c</sup> Pomp. L. x. tus de Aug.



lined within, being garded on the outside with purple and crimson gards) having his head covered, and his face turned toward the east, so that his back was west-ward, his right side south-ward, and his left north-ward: being thus placed he quartered out with his crooked staffe the heavē into certain *templa*, id est, Regions or places, observing in what region the birds did appear: then killing his sacrifice, and offering up certain prayers called *Effara*, he proceeded in manner as followeth. But first suppose we for our better understanding hereof, that now the *Augures* were to resolve the people, whether the Gods would assent that *Numa Pompilius* should be King. The *Augur* having done as above is shewed, his *Lituum* being in his left hād, he reach'd forth his right hand, putting it upon *Numa Pompilius* his head, using this forme of words, *Impiter pater, si fas sit Numā Pompiliū, cuius ego caput teneo, regē Romae esse, fac uti nobis signa certa ac clara sint inter eos fines quos feci, &c.*: If it be lawfull for this *Numa Pompilius*, whose head I hold, to be King of *Rome*, shew some manifest tokēs within these regiōs or quarters which I have described. Then if he observed lucky signes & tokēs, he presently pronounced *Numa Pompilius* King of *Rome*: if he perceived unlucky tokens, thē did he *obnunciare*, or gain-say, and shew that the matter propos'd was not pleasing to the Gods. Where by the way we must note, that nothing was confirmed by the *Augures* without the appearance of two lucky tokens one after another; neither was any thing gain-said by the appearance of one only evill token. The distinctions of the soothsayings have been taken, some from the event, and thence are they called *prosp̄ra*, lucky; or *adversa*, unlucky: some from the manner of appearing, and that was either wish'd, being called therefore *impetrativa*, or unwish'd, called *oblativa*: some from the diversity of things which offered themselves in time of divining, & so there were five distinct sorts: the first was by the observing of lightning and thunder from heaven, the second from the flying,



Of the Roman Priests with some particular Gods. 51

flying, & chatting of birds; the third from bread cast to pullets, or little chicken; the fourth, from foure-footed beasts, which either should crosse the way, or appeare in some unaccustomed place: the fifth, from those casualties whereby the Gods doe make their anger appeare unto us. Of this sort are those voices which we heare we know not whence (as *Cadmus* heard when he overcame the serpent;) the falling of salt towards us, at the table; the shedding of wine upon our cloaths. From which casualties, & the like, the *Augures* would pronounce either good fortune or bad to ensue: And these tokens were therefore called *Dira*, because thereby *Dei ira nobis innotescit*, the Gods anger is made known unto us. Now the things that in divining-time appeared on the left-hand were commonly tokens of good luck, because the givers right hand in bestowing a benefit is opposite to the receivers left-hand. Whence *sinistrum*, though in humane affaires it signify as much as unlucky, yet in those holy rites of divining, *sinistrum* is taken in a contrary sense, as *Avis sinistra* good luck; *Inconus levum*, it hath thundred luckily, we shal have good successe: & it is said *à sinendo*, because the Gods thereby doe suffer us to proceed in our purposed projects. And therefore *Tully* saith, lib. 1. *de divinatione*, *à sinistra cornice rictum & firmum augurium fieri*: and in the law of the 12. tables it is said, *Ave sinistra populi magister esto*. The *Gracians* from hence in the judgment of *Lipsum* have called the left hand *à sinister* from *àeisor* signifying the best.

*c. Fox fabia  
audita est nre  
erat cognosce-  
re promptum  
Vade, sed au-  
dita est, Ovid.  
Met. l. 3. fab. 1*

*f. Serv. Teren-  
lib. 2.*

*d. Lips. Elest.  
lib. 2. cap. 2.*

CAP. 7.

De Tripudiis & Pullariis.

THIS kind of conjecturing is called *auspicium coactum*, *quoniam necesse erat offa objecta cadere frustum ex pulli ore, cum pascitur*. The word *Tripudium* is used by a syncopation for *terripudium*, which is as much as *terripa-*

*g. Cic. de di-  
vinat. lib. 1.*



*h*Humbert. in  
lib. 6. Ep. fam.  
Cic.

*i*Alex. Gen.  
dier. l. 1. c. 29.

*&* Alex. ib.

*vinum, id est*, a dancing or rebounding of any thing upon the ground: for *pavire* is the same with *ferire*. <sup>a</sup> Others say *Tripudium quasi tritio pedum*. It is here taken for the divining, or conjecturing of good or evil to come by the rebounding of crums cast to chicken in a coop or pen: whence the *Augur* from these pullets or chicken was called *Pullarius, id est*, a Bird-Propheet. <sup>i</sup> The manner in observing was this: as often as by this kind of conjecturing they desire to know the Gods pleasure concerning the enterprizing of any matter, early in the morning those that were skilfull in this kind of observation, repaired unto the place where the chicken were kept, where silence being commanded, and the coop opened, they cast crummes of bread to the chicken: now if the chicken either came slowly, or not at all unto the bread, or if they walked up and downe by it not touching it, then was it a token that the matter to be enterprized was displeasing unto the Gods: but if contrarily the chicken did hastily leap out of the coop and eat so greedily of the crums, that some should fall out of their mouthes againe, then the *Pullarius*, that is, the *Augur* pronounced that it was well pleasing to the Gods, and encouraged the enterprizing of what they had intended cheerefully: and this was called *Tripudium solistimum*. This kind of conjecturing may seem to have its originall from the *Lycians*, <sup>k</sup> who as often as they desired to fore-know the successe of any enterprize, they went unto the fountaine dedicated to *Apollo*, into which they cast baits for the fish: now if the fishes did eat them, it did betide good luck; if otherwise they neglected the baits, then it did betoken some evill event.



## CAP. 8.

*De Aruspiciis, Aruspiciâ, & Extispicio.*

THIS kind of Sooth-sayers, as they were called *Aruspices*, *ab aras aspiciendo*, from the beholding the beast upon the altar; so were they called *Extispices*, *ab exta aspiciendo*, from beholding the bowels or entrails of the beast, called in Latine *Extâ*. In this kind of soothsaying the *Aruspex* observed in manner as followeth: first<sup>1</sup> whether the beast to be sacrificed came unto the altar willingly, without plucking and haling; whether he died without much struggling, or lowd bellowing; at one blow or many; whether any unluckie object were seen, or heard by the whiles they were sacrificing. Againc, after the beast was slaine, then would they observe, whether the bowels were of an unnatural colour, whether they were not ulcerous, exsiccate, or impostumated: moreover they would divide the bowels into two parts, the one they would call *partem familiarem*, from whence they would fore-tell what would befall themselves and their freinds; the other they would call *partem hostilem*, whence they gathered predictions touching their enemies. Hence *Manto* in<sup>m</sup> *Seneca* describing the entrails of his killed sacrifice, saith, *Hostile valido robore insurgit latrus*, meaning by *hostile latrus*, *partem hostile*. Afterward when the sacrifice was to be burned, they considered, whether the flame of the fire was smoakie, whether the smoke rolled & tumbled in the ayre, whether it were of any continuance or no: for all these were unfortunate tokens, as the contrary did betoken a good & fortunate issue to their designments. These last which observed the fire & smoke were called by a more peculiar name *Capnomantes*, smoke-augurers, frô the Greek words *καπνός* signifying smoke, & *μαννός*, *id est*, vates, or a Soothsayer. The first instructions that the *Romans* received

1 Senec. Oed.  
Act. 2. scen. 2.

m Oedip. A &.  
2. scen. 2.



« Cic. de di-  
vinat.

Indigenæ di-  
xere Tagem,  
qui primus  
Hetruscæ e-  
docuit gentem  
casus aperire  
futuros Ov.  
Met. lib. ult.

was from the *Hetrusci*, ( who as they themselves say ) re-  
ceived their knowledge from a little boy, which they na-  
med *Tages*, the history being thus ;<sup>a</sup> when the *Hetrusci*  
were plowing their lands, upon a sudden upstart this *Ta-*  
*ges* out of one of the furrowes, using diverse speeches unto  
the plow-men: but they being much affrighted at this sud-  
den & strange vision, began with a lowd cry to lift up their  
voices; upon occasion whereof many other people flocked  
thither, where he gave many good instructions concerning  
this kind of soothsaying, which were presently recorded in  
books, and practised afterward by the *Hetrusci*.

## CAP. 9.

## De Flaminibus.

« Rosin. antiq.  
lib 3. c. 15.  
p Rex Anius  
Rex idem ho-  
minum Pha-  
biq. sacerdos.  
Virg.

**T**He mitre or head-ornament which these Priests did  
weare, was called in old time *Flama*, whence the  
Priests took their name *Flamines*. The custome amongst  
the *Græcians*, as likewise afterwards among the *Romanes*  
was, that the Kings should as well perform ceremonies &  
holy rites of religion, as civill busineses. But *Numa Pompi-*  
*lius* perceiving that forrain warres did oftentimes occasion  
the Kings absence, insomuch that those religious ceremo-  
nies which he himselfe personally should perform were of  
necessity sometimes neglected, hereupon he ordained out  
of the *Patricii* three Priests to perform that divine service  
unto *Jupiter*, *Mars*, and *Romulus*, which he himselfe other-  
wise ought to have performed, calling the first *Flamen Dia-*  
*lis*, the other *Flamen Martialis*, & the last *Flamen Quiri-*  
*nalis*; from *Romulus*, which was often called *Quirinus*.

*Sive quod hasta quiris prisce est dicta Sabinis,*

*Bellicum at telo venit in astra Deus.*

*Sive suo regi nomen posuere Quirites.*

*Sen quia Romanus junxerat ille Cures.*



In proceſſe of time twelve others choſen from the Cōmons were added unto theſe, but with this note of diſtinctiō, that the three firſt were had in great eſteeme, and were called *Flamines majores*, high Priests; the other of leſſe note called *Flamines minores*, inferiour Priests. The cheif of all was the *Flamen Dialis*, *Jupiters* high Priest: and whereas every one did weare a certain bonnet in form of a mitre, which ſometimes was called *Pileū* ſometime (by the figure *ſynecdoche*) *Apex* (whereas *Apex* doth properly ſignify onely the top of the bonnet) & none might weare *Albo-galerum*, *id est*, a white mitre, but only *Jupiters* Preilt, and that was to be made of a white ſheep-skin, after the ſheep had beene ſacrificed. Whatſoever malefactor could eſcape unto this Priest, he ſhould not be puniſhed that day. None was eligible into this office, but he that was married: neither was it lawfull for him to marry twice, but if his wife died, *Flaminio abibat*, i. e. he reſigned his ſacerdotall office. To him was permitted a rich robe of ſtate, and a curule chaire: none might fetch fire out of his houſe, unleſſe it were to perform ſome ſacrifice therewith: none might barbe or poll him but a free-man, and that with braſen ſciſſers. Many other ceremonies there were which concerned this *Flamen*, as likewiſe Time added many other *Flamines*, namely every God one, yea ſometime thoſe threeſcore Pariſh-prieſts which formerly were called *Curiones*, were called *Flamines Curiales*, & divers Emperors after their death had alſo their *Flamines*. Moreover we muſt note that thoſe Priests wives were called *Flaminiae*; Their miniſters (for they were wont when they went to ſacrifice to take a boy or a maid with them) *Flaminii*, or *Flaminiae*; and the cheife *Flamen's* dwelling houſe was called *edes Flaminea*, or *Flaminia*. But as it ſeemeth probable, *Numa Pompilius*, and ſo the other Kings ſucceeding him did ſtill reſerve their right and authority in holy matters ſo far, that they would inſtruct other inferiour Priests, yea and ſpecially perſonne ſome ſpeciall ſacrifices

themselves

q Alex. Gen.  
dier. l. 6. c. 12.

r Servius Aen.  
lib. 1.

/ Feneſt. de  
ſacerd. cap. 5.

t Alex. Gen.  
dier. l. 6. c. 12.



⁂Sery. in Æn.  
10.

themselves: whereupon after that the King's authority was abrogated amongst them, then that these sacrifices might be continued they chose a certain Priest, which they preferred before the *Flamen Dialis*, but judged him inferiour to the *Pontifex maximus*, or Arch-Pontife, and him they called *Rex sacrificulus*, & *Rex sacrorum*, the King-Priest. To him once every yeare the vestall Nunnes repaired, and used this form of words, *⁂Vigilasne Rex? Vigila.* King art thou awake? awake. For unto him it did belong to bid holy daies, and to provide all things necessary for publike sacrifices. He was to instruct those that sought unto him, the causes of the holy-daies, & to tell them what was lawfull & unlawfull every moneth, & upon the fifth of the *Ides* of Ianuary he sacrificed a *Roman* to *Ianus*. He was likewise wont to offer up a sacrifice in the *comitium* or great hall of justice, which being finished he ranne as fast as he could out of the market-place without delay: His wife was called *Regina sacrorum*, the Queene-Priestesse, & was wont upon the *Kalends* of every moneth to sacrifice a Porker, or a Lamb in her place, in the honour of *Iuno*.

## CAP. 10.

*De Mare, five Mavorte, & Saliis  
Palatinis Marti dicatis;*

**M***Ars*, otherwise called *Mavors* by the figure *Epanthesis*, as we say *Induperator* for *Imperator*, was reputed the God of warre, and so *Adetonymicus* is used for warre, as *vario Marte pugnatum est*, the battle was doubtfull; *proprio Marte*, by ones own strength, and labour. Hee was the sonne of *Juno* onely, without company of her Husband: for when *Iuno* was greatly displeased with her selfe, that *Jupiter* by striking her head, without company of a woman did bring forth the Goddesse *Minerva*, she by the counsell



counsell of the goddesse *Flora* touched a certaine flowre in the field of *Olenius*, by vertue whereof she immediatly conceived the God *Mars*. This God, by reason of his dominion in war the Romans painted fiery, sometimes in his chariot, sometimes on horsback, with a Iavelin in one hand, and a Scourge in the other. In old coines there was sometimes the picture of a cocke joyned with him, to shew the vigilancy, and carefullnesse that souldiers are to use. Hee was called \* *Gradius*, a *gradiendo*, from marching in battle against his enemies. He had a Temple without the City, whence he was called *extramuranus*, y Neer unto this temple without the gate *Capena*, did ly a stone of great note, which upō great droughts the people would bring into the city, & presently Raine would follow; whereupon it was called the Raine-stone, *Lapis manalis*, a *manando*. *Numa Pompilius* in the honour of *Mars*, surnamed *Gradius*, ordained 12 dancing Priests, called *Salij* a \* *saliendo* from dancing, which number afterward wee find to have beene doubled by *Tullius Hostilius*, in the war against *Fidena*, a towne of the *Sabines*. The former 12 being called *Salij palatini*, from the palatine Mount, where they did begin their maurisk; the other, *Colini*, from the hill where their Chappell stood; a and sometimes *Quirinales*; & sometimes *Agonales*; so that the whole Colledge contained 24 Priests. b The occasion of their first institution was this: Vpon a certaine time, in the raigne of *Numa*, the plague, or some other contagious sicknesse was very hot among the *Romans*, insomuch, that no sacrifice, or holy offering could remove it: at that time a certaine brasen Target, or Scutcheon, called in Latine *anea pelta*, or *ancile*, big at both ends, but cut like an halfe Moon on each side, fell from heaven into *Numa* his hands: with a certain voice promising all health unto *Rome*, so long as that brasen Target could be kept safe. Whereupō *Mamurius*, a cunning workman, by the appointment of *Numa*, made eleven other *ancilia*, so like the first, that neither could be known from the o-

x *Rosin. ant.*  
lib. 2. cap. 10.

y *Rosin. ibid.*

z *Plutarch in*  
*Numa.*

a *Dion. Halicarn.*  
lib. 2.

b *Plutarch. in*  
*Numa.*



<sup>e</sup> Dion. Halicarn. lib. 2.

ther (to the intent that if any should be so wicked-minded as to iteale it, he might faile of his purpose by mistaking one for another.) These twelve Priests, had the custody & keeping of them committed to their charge, and in the month of *March* every yeare they apparelled themselves with a party-coloured coat, called *tunica versicolor*, girt close to their body, with a belt, or sword-girdle, and a brest-plate of harnessse, called *anenum tegmen* upon that, & a robe of estate called *trabea*, clasped about them upmost of all. Vpon their heads they did weare *apices*, *id est*, Caps<sup>e</sup> much like unto the *Persian Bonnets*, called in Greek *κρυβαντα*, or *νίκα*. They did somewhat resemble our head peeces in war, made close unto the head, with a crest of cloath upon the toppe, whence some have called them *Galeas*. They being thus apparelled, danced about the *Forum*, or market-place, and the *Capitoll*, with short swords by their sides, a Iavelin in the right hand, and their *ancile* in the other; using certaine Songs, either of the Gods, and those they called *Iannalis*, *Innonii* and *Minervii*; or of men, and those they called *axamenta*, because in those Songs they did *axare*, *id est*, nominate and call upon the names of some well deserving men as *Mamurius* which made those cleaven Scutchions, was often called upon in those Songs. Vpon their festiual daies they had excess<sup>e</sup> of cheere, whence <sup>d</sup> *Horace* hath used *salivres dapes*, to signify dainty fare.

<sup>d</sup> Horat. lib. 1. Ode 37.

## C A P. II.

### De Faciatis, & Patre patrato.

<sup>e</sup> Pomp. Lætus de sacerdotibus.  
<sup>f</sup> Dion. Halicarn. lib. 2.

THESE *Faciales* were Officers at Armes, or Heralds, to denounce war, or proclaime peace, appointed thereunto at first \* by *Numa Pompilius*. <sup>f</sup> The chiefe part of their Office was to dissuade the *Romans* from molesting any confederate Nation with unjust warre: and if any confederate



*Of the Roman Priests with some particular Gods. 59*

confederate Nation did offer injury unto the *Roman* people, then did these *Fœciales*, goe as Embassadours unto them; perswading and exhorting them to yield the *Romans* their right: but if they continued thirty dayes obstinate, refusing to yield unto that which should be iust and right, then did they presently denounce warre against them, casting forth a dart in token thereof: which denunciation was & called *clag* g Serv. An- rigatio, à clarâ voce quâ utebantur Fœciales. Others are of lib. 2. opinion, that whensoever war was denounced, this Herald at Armes should <sup>h</sup> turne loose a Ram unto their enemies h Vid. Eras- borders; signifying thereby, that their fields should shortly Adag. become pasture for the *Romans*: from which custome wee say of one that challengeth another into the field, *Aristem emissit*. Again if the *Imperator*, or Lord-generall had done ought against his Oath, these *Fœciales* by their sacrifice did avert the wrath of the Gods from him. The chiefeſt of them was called *Pater-patrus*, a perfect father: for hee only could be *Pater-patris*, which had both children of his own; and his father also alive. They were called *Fœciales à fœdere faciendo*, from making a league or peace betweene Nations. This league, which we in Latine doe call *Fœdus*, the *Romans* in old time<sup>i</sup> did call *Fides*, as *Ennius* & <sup>i</sup> *Pighius* Sep- tim, lib. 1. *Pighius* witnesse: whence these *Fœciales* were tearmed also *Fidei Flamines*.

CAP. 12.

*De Duum-viris, & Decemviris, & Quindecemviris,  
Sacris faciendis, item de Sibyllis.*

**T**HIS Priest-hood had its first institution from *Tarquinus Superbus*, whose office was aswell to expound, as to keepe the Oracles of those tenne Prophetesses so famous throughout the world, called *Sibylla*. Concerning whom <sup>h</sup> *Munster* hath these words: In times past there came h Munster in su Cosmog. lib. 2.



a strange woman to *Tarquinius* the King offering nine books, full of the *Sibylline* Oracles to be told: but *Tarquinius*, thinking the books too deere, refused to buy them; the woman departing, burned three of these books, and came the second time unto *Tarquinius*, demanding as much for those six books, as formerly she had done for the nine; *Tarquinius* began to deride her, whereat the woman departed, and burned three more, returning again unto *Tarquinius*, & asking as much for the three left, as she asked at first for all nine. Then began *Tarquinius* more seriously to bethinke himselfe thereof, and sent for his *Augures*, asking counsell and advice of them. And they understood, by certain signes observed, that the King had refused some speciall goodnesse sent from the Gods, and for the books that remained, they advised, that the woman should have what she asked: As soon as the woman had delivered her books, she presently vanished, and was never seene again; onely warning them to keep the books as safe as possibly they could. For the safe keeping of these, *Tarquinius* chose two of the Noble men, or *Patritii*, calling them *Duum-viri*, appointing them, as well by study to expound, as with care to keep those Oracles. In proceſse of time, the people obtained, that tenne should be appointed to this office, <sup>l</sup> five of them being chosen out of the Commons, and five out of the Nobles: and then they were called, the *Decem-viri*. Afterward by *L. Sylla* as it is thought, five more were added, so that they were then called, the *Quindecem-viri*: nay the number was encreased by *Sylla* unto forty, <sup>m</sup> as *Servius* thinketh, but still called by the name of *Quindecem-viri*. Of these women that had the spirit of propheticie, ten were very famous: the first was called *Persica*, the second *Lybica*, the third *Delphica*, the fourth *Cumæa*, the fift *Erythraea*, the sixth *Samia*, the seventh *Cumana*, the eighth *Hellasponta*, the ninth *Phrygia*, the tenth *Tiburtina*: They all prophesied of the incarnation of Christ. The place where these bookes were kept, was within

¶ Fenest. de  
sacerd. c. 13.

m Serv. Æn.  
lib. 6.



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within the Capitoll under ground in a chest of stone, where they remained safe untill the burning of the Capitoll, at which time they also were burned. Notwithstanding, many of the prophecies have been known, partly by tradition, and partly being taken out of other Copies in other countries. One of the prophecies concerning our Saviour Christ, was uttered by *Sibylla Delphica* in manner as followeth:

*Nascetur Propheta absq̃, matris coitu ex utero ejus*, that is, There shall be a Prophet borne without any copulation of the mother, even out of her wombe. It was spoken at *Delphos*. All their prophecies were of that certainty, that when we would averre any thing to be undoubtedly true, we use to say, it is *Sibylla foliū*, as true as *Sibylla's* Oracles. The *Cumaean Sibylla*, did write her Oracles at the mouth, or entrance of her Cave, in leaves of trees, which the fiercenesse of the wind did oftentimes so scatter, that they could hardly be brought in order againe: insomuch that when we would shew the great difficulty of bringing things in order, we may use *Politian* his words, *Laboriosius est, quam Sibylla folia colligere*, it is easier to gather *Sibylla's* leaves. This name *Sibylla* is not a proper name, but an appellative, common to all women endowed with the spirit of prophecy, taking their denomination from *Poms*, which is in the *Eolick* dialect the same that *Θεός*, *id est*, God, and *βουλή*, *id est*, counsell, because they did open and declare the counsell and determination of God unto the people. It appertained also unto these *Quindecim-viri* above mentioned, to see that sacrifice, and divine service, that supplications, and processions, expiations, and all ceremoniall rites were duely performed.

*n Munster in sua Colmog. lib.*

*Credite me vobis solum recitare Sibylla.*

*o Epist. lib. 2. epist. 1. p Serv. AEn. lib. 6.*

*οὐδὲν enim Deos, non διδ: & consiliū non βυλῶ, sed βυλῶν appellabant @Eolico genere sermonis. Lact. de falsa religione lib. 1. cap. 2.*



## CAP. 13.

## De Bonâ Deâ, &amp; Sacris ejus.

g Cic. orat. de  
Arusp. respon-  
sis.

r Alex. Gen.  
dier. l. 6. c. 8.

**T**His Goddess which is so famous by the name of *Bona dea*, is the Globe of the earth: which is therefore termed *Bona dea*, the good Goddess, because we reap so many good things from the earth. She is called also *Ops*, the helping Goddess, *ab ope*, from helpe, because by her help we live. She is called *Fatua*, and *Fanna*, i. the Goddess of speech, because young children doe never speak untill they are able to goe, and so have touched the earth. The *Gracians* called her *ἡμετέρα θία*, the femal Goddess, because that no Male might be admitted to her sacrifices; nay the very pictures of men were at that time to be covered. The inner roome, where her sacrifices were, was called *ἡμετέριον*, the place for womens assemblies. Those that were chief in these sacrifices, were the Vestall Nuns. This good Goddess was supposed to be the wife of *Fannus*, & upon a time to have bin taken drunk with wine by him: for which fault *Fannus* is said to have beaten her to death with rods of Mirtle tree; but afterward being sorry for that he had done, in amends he made her a Goddess: & as it were ever after detesting the Mirtle tree, he hallowing all other hearbs and flowers to be used in these sacrifices, forbade the Mirtle-tree. Some say she was so chaste, that she was never seen by any man but by her husband; and in respect of her chastity the Mirtle-tree is forbid, because it was consecrated to *Venus*: but whereas in this sacrifice they used wine, they called it not by the name of wine, but milk or hony: whence they called the vessell wherein the wine was put, *amphoram mellariam*, *id est*, the hony vessell. This sacrifice became very famous by reason of *Clodius*, who being in love with *Pöpeia*, *Julius Cæsars* wife, came unto these sacrifices in womans apparrell & was



was found out by *Anrelia, Julius Casars* mother. This *Clodius* became so infamous for this, and other his adulterous pranks, that he occasioned a common proverb amongst the *Romanes*, *Clodius accusat m'chos*, answerable to which our English proverb is, One theefe accuseth another.

C A P. 14

*De Cybelle, & Sacerdotibus ejus.*

**T**HE Goddesse *Cybele*, or rather *Cybelle*, was in her infancy exposed unto wild beasts, upon the hill *Cybellus*; where she being nourished by the wild beasts, afterward became a woman of admirable beauty, and being found by a shepherds wife, was brought up by her as her own child, and called *Cybelle*, from the hill *Cybellus*. She excelled in naturall gifts, and was the first that used a Taber and pipe, and Cymbals among the Grecks. Moreover shee tenderly loved children, and therefore was called *magna mater*: she was also called *mater deorum*, the mother of the Gods;

*Ipsa deum fertur genetrrix Berecynthia. Virg.*

She was called *Rhea*, *a rho*, to flow, because shee doth flow and abound with all kind of goodnesse. She was also named *Pessinuntia*, from the City *Pessinus* a Mart town in *Phrygia*, where she had a Temple. Moreover, she was called *Berecynthia*, from the hil *Berecynthus* in *Phrygia*, where she was worshipped. Her Priests were called *Galli*, and their chief governour *Archi-gallus*: they took their name from a certaine river in *Phrygia*, called *Gallus*; of which whosoever drank, he became so mad, that he would presently geld himselfe, (as in truth all her Priests were enjoined to geld themselves with a fish-shell.) The originall of which custome is rendred thus: *Cybelle* loved a young man of *Phrygia* called *Atys*, and him she appointed chiefe overseer for her sacrifice

(Pomp. Læt. de sacerdot.)



*Cybellus*  
*Atys Exuit*  
*hac hominem*  
*truncosq; indu-*  
*ruit illo, Ov.*  
*Met.*

hence upon condition that he would keep himselfe chaste perpetually: But he not long after deflowered a Nymph, for which fact, *Cibelle* bereft him of his wits & understanding, so that he in his madnesse did geld himselfe, and would have killed himselfe also: had not the Gods in their commiseration towards him, turned him into a Pine-tree. In remembrance of him ever after her Priests were gelded. Every yeare the *Prators* did sacrifice unto this Goddesse. But the performance of the holy and religious rites at that time did belong unto a *Phrygian* man and *Phrygian* woman, chosen for that purpose: which according to the manner of their country being apparelled with a party-coloured garment, called in Latine *Synthesis*, or *Amictus variegatus*, and carrying the picture of their Goddesse about with them in the streets, they struck their breasts with their hands, keeping tune with the Tabers, Pipes, and Cimbals, which other people following plaid upon. The Priests were also called *Corybantes* from one *Corybantis*, which was one of her first attendants; and hereupon we call the Cymball *ara Corybantia*. In this manner dancing about the streets, they begged money of the people whom they met: and hence were they named *Cibelle* her collectors, or her *circulatores*, *id est*, Iuglers. Some called them *αἰγυπιοί* from *αἶγυς*, which in this place signifieth *Cybellé*, called the great mother, and *αἶγυς* a beggar or gatherer of almes. Others have called them *Mitricia*: But by what name soever they were called, the place was so infamous by reason of their drunkennesse, and uncivility used at these times, that when they would point out a notorious naughty fellow, they would call him *circulatorem Cybellinum*, *Cybellé* her Iugler. Neither was it lawfull for any free-borne to undertake that office.

*u Rosin, ant,*  
*l. 3. cap. 27.*



C A P. I S.

De Collegio Pontificum, & Pontifice Maximo.

**T**His word *Pontifex*, is commonly translated a Bishop or Prelate, being called *Pontifices* in Latine, as also Pontifices in English from one part of their office, which was to have the oversight of a great wooden bridge, called in Latin *Pons sublicius*, being so great, that Carts and waines might passe over it; having no arches to uphold it, but onely great piles & posts of wood: \* and that which is most remarkable in it, was that it was ioyned together onely with wooden pinnes, without any iron at all. Others are of opinion, that they were termed *Pontifices quasi potifices*, from *potis* and *facio*, of which opinion *Lucan* seemeth to be, according to that, *Pontifices sacri quibus est commissa potestas*. Concerning the number of them, onely foure were appointed by *Numa*, all which then were to be cholen out of the *Patricii*; afterward foure more were added out of the Commons. They were called *Pontifices majores*, or cheife Pontifices, to distinguish them from seven other, which afterward *Sylla* added, & \* called them, *Pontifices minores*, inferiour Pontifices. The whole company of them was called the Colledge of Pontifices. This Colledge is priviledged from all allegiance, being not bound to render account of their doings either to the Senate or Commonalty. They were to determine all questions concerning religion, as well betweene their Priests as between private men: they had authority to punish any inferiour Priest, if he either detracted or added unto those religious Rites, which were prescribed him. They had their great Pontife, whom they called *Pontificem maximum*. These Pontifices were wont to exceed in their diet, insomuch that when the Romans would shew the greatnesse of a feast, they would say it was *Pontificæ cæna*,  
I id est,

\* Plutarch. in Numa.

† Fenest. de sacerdot.

‡ Roñ. ant. lib. 3. c. 22.



a Lib. 4. de  
magnit. Rom.  
cap. 9.

*id est*, according to our English phrase, a feast for an Abbot. *Cæna adjuicialis*, is taken for the same. <sup>a</sup> *Lipsius* in the exposition of the latter phrase taxeth the Printers negligence, and is of opinion, that it should rather be printed, *Cæna adjuialis*, understanding hereby a solemne feast made by Magistrats in *aditu honoris*, at their entrance into their office, & at their day of inauguration.

## CAP. 16.

*De Epulonibus.*

b *Lazius* de  
Repub. Rom.  
l. 3. cap.

**T**He Pontifes in old time appointed three men, whom they called <sup>b</sup> *Trium-viros Epulonum* (from *Epulum* a feast) to have the oversight of the feasts made at sacrifices; afterward by reason of two twice added, they were called first *Quinque-viri*, and at length *Septem-viri Epulonum*.

## CAP. 17.

*De Titiiis.*

c *Pancirollus*  
lib. rerum de  
perditarum c.  
de mole Ha-  
driani,

**A** Nother sort of religious men there were, which lived in the Suburbs of the City, and practised sooth-saying; They were called *Titii* <sup>c</sup> from the name of the birds which they observed, which in Latine were called *Titia*.

## CAP. 18.

*De Virginibus Vestalibus.*

**N**Eere unto *Castor's* Temple, stood the religious house or Nunnerie, dedicated to the Goddesse *Vesta*: where at the first were foure, after six Virgins, or Votaries elected



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electd, whose office was cheifly to keep the sacred fire: the extinction whereof proved ominous, and did portend some evill event shortly to happen. And therefore for their negligence herein as for all other small faults, they being had into a dark corner, stripped naked, and a curtain drawne halfe way over them, the cheif Pontific scourged them: neither was it lawfull to kindle the fire once put out, with any other fire, but from the sun-beames; for which purpose they had certain instruments named *ægipila*, which were formed in the manner of a *pyramis*, but hollow; so that the beames being collected within the circumference, & meeting in the *vertex*, did easily kindle any combustible matter put into it; but cheifly if the matter was of black colour; because, as Philosophy teacheth, a darke colour doth congregate, or collect the beames, whereas whitenes doth disperse them. A second part of their office was to work reconciliation between parties offended, as appeareth by <sup>d</sup> *Suetonius*, where we may read, that by their intercession *Sylla* was reconciled to *Cæsar*. They were chosen into this place between the sixth, and the eleventh yeare of their age: & they were to remain in this Nunnery 30 yeares space, 10 yeares to learn their ceremonies & mysteries, 10 yeares to exercise the, & 10 yeares to instruct others: within which space if they had suffred their bodies to be defiled, they were to undergoe that fearefull punishment † afore mentiond. But these 30 yeares being expired, marriage was lawfull for the; so that they laid aside their scepters, their fillets, and other their Sacerdotall ornaments. Notwithstanding those which did marry, in the end died fearefull deaths: whereupon they chose rather to abstain commonly. The *Romans* had them in great honour, so that they never walked abroad, but with an iron scepter in their hands, & whatsoever malefactor met them (if the Nun would take her oath it was by chance) he escaped punishment. They were named *Vestals* from their goddess *Vesta*, which word (as <sup>e</sup> *Munster* writeth) is derived

<sup>e</sup> Plutarch. in Numa.

<sup>d</sup> Suet. in *Pu. lio*.

† Vid. sup. p. 14.

<sup>e</sup> Müll. in sua Cosmog. lib. c. 9.



ved from the Hebrew *radix* signifying fire. The eldest was called *Maxima Vestalis virgo, id est*, the Lady Priorresse, or chiefe governesse.

## CAP. 19.

*De veterum sacrificiis & ritu sacrificandi.*

**V**Hatsoever was burnt or offered up unto the Gods upon an altar, it had the name of a sacrifice: and sometimes it was called, *victima*, quod vincula ad aras stabat, because the beast to be sacrificed stood bound unto the altar. Sometimes, *Hostia*, from an obsolete verb *Hostia*, which is to strike: because certain under Officers called in Latine *Popa* (standing by the altars, all their upper part naked, and a Lawrell garland upon their head) did *Hostiare victimam, id est*, strike downe and kill the sacrifice. Others are of opinion, that this name *Hostia*, is taken from *Hostis*, an enemy; according to that of *Ovid*: *Hostibus à domitis hostia nomen habet*, because either before warre, to procure the Gods favour; or after warre, in token of thankfulness, they did *hostiam ferire, id est*, offer up the sacrifice. The second difference of sacrifices have been occasioned in respect of the time, & so they have been called *Præcedanea*, or *succidanea*, quasi *præcedanea & succidanea*. Those sacrifices which were offered up the day before any solemne sacrifice, were called *Præcedanea hostia*, fore-sacrifices, as we English *præcursorum*, a forerunner: which fore-sacrifices, if by any token they found unlucky, then would they offer up a second sacrifice which they termed *hostiam succidaneam*: & because these second sacrifices were to be offered onely instead of the other, when they were unlucky or faulty; hence hath *Plautus* used this speech, *meum tergum stultitia tua subdes succidaneum*? Must I be whipped for thy fault? The manner of sacrificing was as followeth; Some certain daies before a-



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ny sacrifice was to be performed, the Priest was wont to wash his whole body, & especially his hands and feet, which if he had not washed, the sacrifice was accounted polluted: and alluding unto this custome, we say, a man doth *Accedere ad rem illotis manibus*, or *illotis pedibus*, as often as he enter- prizeth any businesse, without due reverence or preparation thereunto. *Μηδὲ πλὴν ἱερέως διὰ λαβέντων αἰδοῦναι ὄνον*

*Χερσὶν αὐτῶν οἶσιν. Hesiod. ἐργὰ καὶ ἡμέρ.*

Moreover, the Priest was to abstain from his marriage-bed, as likewise from divers kinds of meats, & at the time of his going to sacrifices, either himselfe, or some inferior Sexton going before him, with a rod or wand in his hand (called *commentaculū*) & used this forme of words unto the people:

*Hoc age*, attend this you are about: which custome seemeth to have had its originall from the *Grecians*; For before the time of sacrifice, the Grecian Priest used almost the like speech unto his people: as, *τίς τίς ἐστί, ὅς ἐστι*, who is here? the peo-

ple answered, *πολλοὶ καὶ ἀγαθοί, ὅς ἐστι*, many men, & good. After this preparation, then did the Priest, laying his hand upon the altar, rehearse certain prayers <sup>h</sup> unto the God *Ianus*, and the Goddesse *Vesta*; because the Romans were perswaded that without their intercession, they might not have acceffe unto the other Gods: his prayer being ended, then did hee lay <sup>i</sup> upon the beasts head a litle corne, together with a cake made of meale and salt, called in Latine *Mola*, <sup>k</sup> *Mola erat*

*far. costum, sale aspersum*. From this ceremony, the act of sacrifici-  
filing hath been termed *Immolatio*. After this, the sooth-  
fayer drank wine out of an earthen or wooden chalice, cal-  
led in Latine *Simpulum*, or *simpvuyum*: It was in fashion  
much like our ewers, whē we powre water into the bason:  
This chalice was afterward carried about to all the people,  
that they also might *libare, ὅς ἐστι*, lightly tast thereof, <sup>l</sup> which  
rite hath been called *Libatio*. Now every one having tasted  
thereof, the rest of the wine with frankincense mixt in it,  
was to be powred upon the beasts head, <sup>m</sup> between the

<sup>g</sup> Plutarch.  
Numa.

<sup>h</sup> Serv. Acci.  
lib. 1.

<sup>i</sup> Pancirol. lib.  
rerum deper-  
dit, cap. de sale

Ammoniaco.

<sup>k</sup> Textoria  
iua officina.

*Sparge salsa*  
colla taurorū

*mola*. Sen. Oc-  
dip. Act. 2.

scen. 2.

<sup>l</sup> Pancirol. lib.  
rerum deper-  
dit, cap. de

Ammoniaco  
sale.

<sup>m</sup> Media inter  
cornua sunt.

Virg. Æneid.



horne, one crying out with a loud voice, *Macta est hostia, id est, magis aucta*, more increased and made more pleasing unto the Gods; as *Virgil* saith, *Macte nova virtute puer, id est* O good child which increaseth in vertue. And hence even from this terme, we may conjecture, that the word *Macto*, which signifieth to kill, and sometimes to sacrifice, hath had its originall, because they did immediatly after that voice, *mactare hostiam*, that is, slay the sacrifice, & that was done in this manner. \* First the Priest did pluck off some of the beasts haire between the hornes, & cast them into the fire, calling them his *prima libamina, id est*, his first offerings: The did he, turning his face toward the east, draw a long crooked knife upon the beasts back, commanding his under officers which I called *Popa*, (others *Cultrarii*, from their knife; *Vitularii*, from the host; & *Agones*, because they standing ready to give the stroak, often used this word *Agon*, for *Agone? id est*, must I to my work?) to kill the beast. The other people standing by, some did with vessels save the blood, others did flea or skin the beast; others washed it. Anon, some Soothsayer or Priest, did observe the entralls, turning and winding them with a knife, which was called *Secepsa, à secando*: for he might not touch them with his hand, they conceiting, that if the sacrifice had proved polluted, his hand would then have perished. Now after the Soothsayer or Priest had sufficiently turned the entralls, & found no ill token therein, then did those *Popa*, or Church-butchers, cut off from every bowell some portion, which after they had rolled in barley meal, they sent it in baskets to the Priests, & the Priests taking it up into a broad charger or platter, called *discus*, or *lanx*, laid it upon the altar & burnt it, & \* this was properly termed *litare*, or *Reddere*, i. e. to satisfie by sacrifice, or to pay the sacrifice, which was owing unto the Gods. After that the portion laid out for the Gods had been burnt, then did all the people repaire unto a common feast; where as they were eating, they sung Hymnes, and Songs, in the praise

\* Rosin. ant.  
1.3.c.33.

\* Ioac. Came-  
rar. pro Flac.



praise of their Gods, and playing on Cymbals, they danced about the altars, intimating thereby, that there was no part of their body, but should be imployed in the service of their Gods. Now untill all their Ceremonies & Myſteries were finiſhed, it was not lawfull for any to taſt of this feaſt: inſomuch that we ſince have uſed to check a glutton, or greedy-gut, which cannot abſtaine from his meat till grace be ſaid, in this manner, *Sacra haud immolata devorat.*

## CAP. 20.

*De Nuptiis, & nuptiarum renunciations.*

Being that marriages, and burials, have ſuch dependance upon the Priests, it will not be amiſſe to conclude this Section, with two chapters, briefly opening the ceremonies of both. Before we come unto the ſolemn Ceremonies, uſed by the *ROMANS* in their marriages, wee will firſt ſhew the manner of their contracts, which were called by the *ROMANS*,<sup>a</sup> *Sponsalia à ſpondendo*, becauſe in their contracts, each did promiſe other to live as man and wife. Now the manner of contracting was commonly thus: They did for the greater ſecurity, write down the forme of the contract upon tables of record, as appeareth by *Juvenal. Sat. 6.*

*Si tibi legitimis pactum, junctamq; tabellis*

*Non es amatus* —————

<sup>a</sup> Salmuth. in Pancirol. lib. rerum deperdit, cap. de nuptiis.

Theſe tables were alſo ſealed with the ſignets of certaine witneſſes there preſent, who were termed from their act of ſealing, *Signatores*. Moreover, before they would begin the Ceremonies of their contract, the man procured a Soothſayer, & the woman another, with whom firſt they would conſent. Whence *Juvenal, Sat. 10.*

— *Veniet cum ſignatoribus auſpex.*

The token or ſigne which theſe Soothſayers in time of ob-<sup>b</sup> Alex. Gen. ſerving accounted moſt fortunate, was a Crow: <sup>b</sup> *Ea enim lib. 2.*

*cornicum*



*cornicum societas est, ut ex duobus sociis altera extincta, vi-*

*dua altera perpetuo maneat.* The man also gave in token of good will, a ring unto the woman, which she was to weare upon the next finger unto the little of the left hand, <sup>c</sup> because unto that finger alone, proceedeth a certain artery from the heart. The word *Nuptie*, which signifieth marriage, had its derivation *a nubo*, <sup>d</sup> which verb in old time signified to cover: the custome being, that the woman should be brought

<sup>c</sup> Aul. Gel.

<sup>d</sup> Rosin. ant.

lib. 5. c. 37.

<sup>e</sup> Plin. lib. 21.

cap. 8.

<sup>f</sup> Sig. de jur.

Rom. l. 1. c. 9.

<sup>g</sup> Salmuth. in

Panciol. lib.

rerum deper-

dit. cap. de

nuptiis.

<sup>h</sup> Boeth To-

picor. 2. Vid.

Cael. Rhod.

lib. 28. c. 17.

<sup>i</sup> Sig. de jure

Rom. l. 1. c. 9

unto her husband, with a <sup>e</sup> yellow vail (called *Flammeum*) cast over her face. Again, because of the good success that *Romulus*, & his followers, had in the violent taking away of the *Sabine* women, <sup>f</sup> they continued a custome, that the man should come & take away his wife by a seeming violence, from the lap or bosome of her mother, or the next kin. She being thus taken away, her husband did disleaver & divide the haire of her head, with the top of a spear, wherewith some Fencer formerly had been killed. This spear was called by them *Hasta cælibaris*, <sup>g</sup> & the Ceremony did betoken, that nothing should disioyn them, but such a spear, or suchlike violence. The next day after the marriage, a solemn feast was held, where all the Bride-mans & Bride-womans friends met to make merry, this feast they called *Reposita*. We must note, that <sup>h</sup> three manner of waies, a woman became a mans lawful wife: *usu, cōsarratione, coemptione*. A woman became a mans lawful wife, *Usu, i.* By prescription or long possession, if that she were wed with the consent of her overseers, & so did live with the man, as with her lawfull husband, a whole yeares space, *nullo interrupto usu, i. e. i* she being not absent from him three nights in the whole yeare: and some have thought, that the counterfeited violence, in taking away the maid from her friends, was used onely in this kinde of marriage. A woman became a mans wite *cōsarratione id est*, by certain solemnities used before a Pontific, or chiefe Bishop, when the woman was given unto the man using a set forme of words, ten witnesses being present, & a solemn sacrifice



sacrifice being offered, at which the couple married should eat of the same barley cake, which formerly had been used in the sacrifice: Which sacrifice was termed, *a farre, confarreatio*; and the marriage it selfe, *Farracia*,<sup>k</sup> & sometimes *sacra* simply; the dissolution of this kind of marriage *Diffarreatio*.

<sup>k</sup> Cic. orat. pro Muræa.

A woman became a mans wife, *coemptione, id est*, by buying and selling, when the woman did under a feigned forme of saile buy her husband, by giving him a piece of coyne. *Veteri*

*Romanorum lege, nubentes mulieres tres ad virum asses ferre solebant: atq; unum quidem quem in manu tenebant, tanquam emendi causâ marito dare.*<sup>m</sup> To these three some teach, that

<sup>l</sup> Sig. de jure. Rom. l. 1. c. 9.

a fourth sort of marriage was in use among the Romans; namely, when a woman became a mans wife, *sortitione*, by

<sup>m</sup> Sueton. in Tiber. c. 35.

a kind of lottery: and of this they say, *Sueton* speaketh. <sup>n</sup> In that kinde of marriage, which was *per coemptionem*, the man

<sup>n</sup> Cic. orat. pro Muræa. Item Fr. Sil. 1b

was not named by his proper name, nor the woman by hers; but the man was named *Cajus*, and the woman *Caia*, in the memory of the chaste & happy marriage of *Caia Cæcilia*, wife to *Tarquinius Priscus*: from whence sprang a custome among them, that the new-married wife, when shee was brought home unto her husbands house, was to use this proverb; *Vbi tu Caius, ibi ego Caia*; by which word she signified that she was now owner of her husbands goods, as well as himselfe: & therefore *Erasmus* hath expounded that saying by these words; *ut tu dominus, ita ego domina*,<sup>o</sup> And she that was thus married, *Per coemptionem*, was properly called *Mater-familias*. If any of these Ceremonies were omitted then was the marriage termed, *Nuptia inupta*, in which sense we call our enemies gifts no gifts, *ἔχθρῶν ἀδωκα δῶρα*.

<sup>o</sup> Cæc. Rhod. lib. 28. c. 17. <sup>p</sup> Hieron. Ferrarius in Philippi. orat.

These ceremonies being ended, towards night the woman was brought home to her husbands house, with five Torches; signifying thereby, the need which married persons have of five Gods, or Goddesses, *id est*, *Jupiter, Juno, Venus, Sualda, & Diana*, who oftentimes is called *Lucina*, (the reason of the name being rendred by *Ovid*,

K

*Dedit*



----- *Dedit hac tibi nomina lucus,*

*Aut quia principium tu Dea Lucio habes.*

\* Pancirol. l.  
rerum deperd.  
esp. de nupt.

There are of opinion, who think that the use of these Torches, was not only to give light, but to represent the elemēt of fire: for no marriages were thought happy, which were not contracted *Sacramento ignis & aqua*: for which reason the custome likewise was, to besprinkle the new married woman with water, yea they did both in time of their contract touch water & fire provided for that purpose. The signification of this ceremony, some think to be thus; The fire, because it is an active elemēt, to represent the man; the water, because it is passive, to represent the woman. Others say that in the community of these two elements, was intimated the community between man & wife, of all other their goods and possessions, which was more fully declared in that fore-quoted proverb, used by the wife, *Ubi tu Cajus, ibi ego Cajo*. The matter whereof these Torches were made was a certaine tree, from which a pitchie liquor did issue: it was called *Teda*, and thence have the Poets figuratively, called both the Torches, and the wedding it selfe *Tedus*. When the woman had been thus brought to the doore, then did she anoint the posts of the dore with oyle, & from which Ceremony, the wife was called *uxor quasi unxor*. This ceremony of anoynting being ended, the Brideman did lift her over the threshold, and so carried her in by a seeming force, because in modesty she would not seem to goe without violence into that place, where she should loose her maidenhead. At her carrying in, all the company did cry out with a loud voice, *Talassio, Talassio*: for which custome, <sup>2</sup> *Plutarch*alledgeth many occasions; this being one. Among those who ravished the daughters of the *Sabins*, there were found some of the meaner and poorer sort, carrying away one of the fairest women: which being known, certain of the citizens would have taken her from them, but they began to cry out, that they carried her to *Talassius*, a man well beloved

9. Serv. Æn.  
lib. 4.

2. Plutarch vita  
Pompeij.



beloved among the *Romans*; at which naming of *Talassius*, they suffered her to be carried away, themselves accompanying her, and often crying *Talassio, Talassio*. From whence it hath been continued a custome among the *Romans*, ever at their marriages to sing *Talassio, Talassio*, as the Greeks did, *Hymen, Hymenae*. From this custome of leading or bringing home of the new married Bride, commeth that Comical phrase, *Ducere uxorem*, to marry a wife. She being thus brought home, received the keyes of her husbands house, whereby was intimated, that the custody of all things in the house was then committed unto her. <sup>f</sup> The marriage bed was called, *Genialis lectus*, as we may suppose, *quasi Genitalis*. \* Sometimes it was called, *Lectus adversus*, *quod hunc lectulum religiose servavimus fuit, & in atrio collocari janua ex adverso, id est*, they placed this bed in the Court, directly opposite to their gate, keeping it as some religious monument or pledge of matrimony. The next day after the marriage, the Bride-woman received gifts of her friends, which the Lawyers term, *Nuptialia dona*. <sup>u</sup> But *Cicero ex-* <sup>u</sup> Vid. Fr. Silv. pro Cluent.

poundeth these *Dona nuptialia*, to be certain tokens, which the husband sent to his wife before the betrothing. If after the marriage, any discontent had fallen out between the mā and his wife, \* then did they both repaire to a certain Chap- \* Sig. de jure Rom. l. i. c. 6.

pell, built in the honour of a certain Goddesse, called *Dea viri-placa, à viris placandis*, Whence after they had been a while there, they returned friends. We have thus seen the Rites and Ceremonies, which the *Romans* used in their cōtracts and marriages; it would not be impertinent to annex the manner of their divorcements; which upon just causes were permitted. There were two manner of divorcemēts: <sup>x</sup> Rosin. ant. lib. 5. cap. 38.

the one between parties only cōtracted; the second between parties married. The first was properly called *Repudium*, in which the party suing for divorcement, used this forme of words, *Conditionis tuæ non utar*. The second was called *Divortium*, wherein the party suing for it, used these words, *res*



*tuas tibi habeto; vel res tuas tibi agito.* Both these kinds were tearmed, *Matrimonii renuntiationes*, renouncing or refusal of marriage. Where we must note, that instead of this verb *renunciare*, divers good Authors doe use this phrase, *Mittere* or *Remittere nuncium*: as *C. Caesar Pompeia nuncium remisit*, *C. Caesar* hath divorced *Pompeia*. And alluding hereunto  
 \* Ep. fam. l. 5. y *Cicero* saith, *virtuti nuncium remisit*, *id est*, he hath cast off all goodnesse, he hath even divorced vertue. Secondly, we must note, that this verb *Renuncio*, doth not only signify to renounce, or to refuse, but many times in *Tully*, it signifieth to declare or pronounce a Magistrate elected, as *Renunciare Consulem, Praetorem, &c.* The reason why in matrimoniall contracts, it signified to renounce, or refuse, was because in these divorces, they did oftentimes send to their wife *per nuncium*, by a messenger, some bill or scrole of paper, containing the causes of the divorce. Moreover, we are to observe, that in these divorces, the ceremonies were quite contrary to those in marriages, the just causes of divorce, being fore-signified to the Censors, the marriage tables were broken, the dowry restored, the keys of the house taken from the woman, & she turned out of doores: all which ceremonies are at large treated of by *Th. Dempster*, l. 5. *Antiq. Rom.* cap. 38.

## CAP. 21.

*Quo apparatu, quibusq; ceremoniis apud veteres defuncta corpora igni tradebantur.*

**T**He Romans in ancient time, when they perceived a body dying, had such a custome, that the next of the kin should receive the last gasp of breath from the sick body, into his mouth, as it were by the way of kissing him: (to shew thereby how loath & unwilling they were to be deprived of their friends) and likewise should close the eyes of the party being deceased. Whence *Anna* said unto her



her sister *Dido* now dying,

..... *Extremus si quis super halitus errat,*

[Virg. *Æn.* 4.]

*Ore legam*.....

And *Penelope* wishing that her son *Telemachus* might outlive her selfe, and his father, writeth to her husband in this manner,

*Ille meos oculos comprimat, ille tuos.*

After the body had thus deceased, they kept it seven dayes unburied, washing the corps every day with hot water, and sometimes anoynting it with oyle, hoping that if the body were only in a slumber, and not quite dead, it might by these hot causes be revived.

*Per calidos latices aliena undantia flammis*

*Expediunt, corpusq; lavant frigentis & ungunt.*

In these seven daies space, all the dead mens friends met together now and then, making a great outcry or shout with their voices, hoping that if the dead body had been only in a sound or sleep, he might thereby be awaked. This action was termed *conclamatio*, whence when we have done the best we can in a matter, and cannot effect it, we say proverbially *conclamatum est*, for this third conclamation or generall out-cry (which was alway upon the seventh day after the decease) was even the last refuge, at which if the body did not revive, then was it carried to buriall, being invested with such a gown, as the parties place or office formerly had required. Those who had the dressing, chesting, or embalming of the dead corps, were called *Pollintiores*: After they had thus embalmed the corps, they placed it in a bed fast by the gate of the dead mans house, with his face and heeles outward toward the street, according to that of *Persius*;

----- *Tandemq; beatulus alto*

*Compositus lecto, crassiq; lutatus amomis*

*In portam rigidos calces extendit.*-----

Herewith accordeth *Homer* speaking of *Patroclus* his funeral.

Ὅς μοι ἐνὶ χλιδῇ δέδωκεν ὄρεϊ χαλκῷ,

κεῖται ἀνὰ πύργον πύργῳ μιν.----- *id est,*

K 3.

*Qui*



*Qui mihi in tabernaculo confossus acuto ere  
Lacet ad vestibulum conversus.*

This ceremony was properly called *corporis collocatio*: and fast by this bed, neere the gate also was erected an altar, called in Latine, *Acerra*, upon which his friends did every day offer incense untill the buriall. The gate in the outside was garnished with cypresse branches, if the dead man were of any wealth or note: for the poorer sort, by reason of the scarcity of the tree, could use no such testimony of their mourning:

*Et non plebeios luctus testata cupressus.*

u Lucanus,

x Alex. Gen.  
dier. l. 3. c. 26.

y Rosin. ant.  
lib. 5.

z Alex. Gen.  
dier. lib. 3.

In these seaven dayes space, certain men were appointed to provide all things in readines for the funerall; which things were commonly sold in the \* Temple of *Libitina*, from whence those providers were termed *Libitinarii*, though sometimes this word *Libitinarius* doth signify as much as *capularis*, an old decrepit man, ready for the grave. Vpon the eight day a certain cryer in manner of a bel-mā, went about the town to call the people to the solemnization of the funerall, in this forme of words; *Exequias ꝛ L. Tito L. Filio quibus est commodum ires. Iam tempus est. Ollus ex adibus Effertur*. After the people had assembled themselves together, the bed being covered with purple, or other rich covering, the last conclamation being ended, a trumpeter went before all the company, certain poor women, called *Prasica*, following after and singing songs in the praise of the party deceased: where we must note, that none but the better sort had a trumpet sounded before them; others had only a pipe; \* *Senatoribus & patriciis tubā, minoribus & plebeiis tibiā canebant siticines*; this word *Siticines*, signifying either a trumpeter or piper, because they did both *ad sitos*, i. e. *mortuos canere*. Again, except it were one of the Senators, or chiefe citizens, he was not carried out upon a bed, but in a coffin upon a Beer. Those that carried this bed were the next of the kin so that it fell often among the Senators themselves, to beare the



the corps, and because the poorer sort were not able to undergoe the charges of such solemnities, thereupon were they buried commonly in the dusk of the evening; & hence à *vespertino tempore*, those that carried the corps were termed *vespa*, or *vespillones*. In the buriall of a Senator or chief Officer, certain waxen images of all his predecessors were carried before him upō long poles or speares, together with all the ensignes of honor, which he deserved in his life time. Moreover, if any servants had been manumized by him, they accompanied the mourners lamenting for their masters death. After the corps followed the dead mans children, the next of the kin, & other of his friends, *atrati, id est*, in mourning apparell. Frō which act of following the corps, namely à *sequendo*, these funerall rites have bin termed, *Exequia*, as *Donat* hath observed upon that of *Terence*, *Funus interim procedit, nos sequimur*. Which rites, because they were performed as debts due unto the party deceased, hence were they also called, *Iusta*. *Eò dicuntur iusta, quòd iure mortuis satisfieri debent à vivis*. *Polid. de invent. l. 6. c. 9.* The corps being thus brought unto their great Oratory, called the *Rostra*, the next of the kin <sup>a</sup> *laudabat defunctum pro rostris, id est*, a *Suet. C. Jul. Cæsar. c. 6.* made a funeral Oration in the commendation principally of the party deceased, but touching the worthy acts also of those his predecessors, whose images were there present. The oration being ended, the corps was in old time carried home again, in manner as it was brought forth.

*Sedibus hunc referente suis & conde sepulchro.*

But afterward by the law of the twelve tables, it was provided that no man besides the Emperour, and Vestall Nuns, should be buried within the city; though some upon especial favour have obtained it. The manner of their buriall was not by interring the corps, as in former times it had bin, but burning them in a fire (<sup>b</sup> the reason thereof being to prevent the cruelty of their enemies, who in a mercilesse revenge would at their conquests digge up the buried bodies, making

<sup>b</sup> Salmuth. in Pancir. lib. rerum deperd. de exequijs.

king



king even the dead also subjects of their implacable wrath.) This fire before the burning, was properly called, *Pyra*; in the time that it burned, it was called, *Rogus*, <sup>c</sup> *quod tunc temporis Rogari solerēt manes*; after the burning, then was it called *Bustum*, *quasi beneustum*. This *Pyra* was alwaies built in form of a Tabernacle, as it is <sup>a</sup> above more at large to be seen: whither after the dead man had been brought, his friends were wont to cut off one of his fingers, which they would after ward bury, with a second solemnity. The charges at funerals growing by this meanes to be doubled, the law of the 12 tables provided in these words, *Homini mortuo ossa ne legito*, &c. that no mans finger should be cut off, except he died either in the warre, or in a strange country. Where we must observe, that *lego* in this place doth signify as much as *adimo* or *aufero*, in which sense we call him *sacrilegum*, *qui legit*, i. *qui adimit & aufert sacra*. After the dead body had been laid upon the *Pyra*, the were his eyes opened again to shew him heaven if it were possible: <sup>d</sup> & withall an halfe-penny was put in his mouth. they superstitiously conceiting that that halfpenny was *naulū Charontis*, the pay of *Charon* the supposed ferry mā of hell, who was to carry mens souls in his boat over the *Stygian* lake after their decease. About this *Pyra* were first many boughs of Cypresse trees to hinder the evill sent of the corps to be burned. The dead body being thus laid upon the *Pyra*, the next of the kin turning his face averse from the *Pyra*, did kindle the fire with a torch: After this, commonly certāin Fencers hired for this purpose did combate each with other, till one of them was killed, they were termed *bustumarii*, from *bustum*. The blood of thole that were slaine, served instead of sacrifice to the infernall Gods, which kind of sacrifice they termed, *Inferia*. <sup>e</sup> *Inferia sunt sacra mortuorum quæ inferis solvuntur*. Anon after the body had been burned, his neerest friends did gather up the ashes and bones, which being washed with milk and wine, were put into certaine pitchers called *urna*: whence this

word

<sup>c</sup> Serv. Æn. 5.<sup>f</sup> Sup. pag. 36.<sup>d</sup> Alex. Gen. d. cr. lib. 3.<sup>e</sup> Servius.



word *urna*, is often used by the Poets, to signify a grave or sepulchre, as

—*Unâ requiescit in urnâ: Ovid. Met. lib. 4.*

Though properly *sepulchrum* was in old time, a vault or f Robt. ant. lib. 5. arched rooffe, round about the walls whereof were placed

certain coffins called *loculi*, within which those former *urnæ* were laid up and kept, namely, two or three in each coffin.

Now these funerall solemnities were commonly towards night, inso much that they used Torches; these Torches they properly called, *funalia à funibus cerâ circumdata*.

*is, unde & funus dicitur.* g Servius in Æneid. lib. 1. Others are of opinion, that *funus* is so said from the Greek word *φύω* signifying death or

slaughter. The bones of the buried body being thus gathered up, then did the Priest besprinkle the company with clean water thrice, and the eldest of the mourning women called *præfice*, with a loud voice pronounced this word *Ilicet*, thereby dismissing the company, (the word signifying as much as *ire licet*;) Then presently did the company depart, taking their farewell of the dead body in this forme of words: *Vale, vale, vale: nos te ordine quo natura permiseris sequemur.*

If any of these ceremonies had been omitted <sup>i</sup> then was it termed *sepultura insepulta*, in the same sense as *nuptiæ* formerly were termed *innuptæ*.

The old and aged men were invited after the buriall, to a feast, or funerall banquet called, *silicernium* k Servius in Æneid. lib. 5. *quasi silicanium, id est, cæna supra silicem*

*posita*, their custome being to eat that feast upon an altar of stone: and because this feast was only eaten at funerals, and by the elder sort, <sup>l</sup> hence figuratively this word *silicernium*, doth sometimes signifie an old cripple ready for the grave:

The poorer people instead of a feast, received a dole or distribution of raw flesh: this dole was termed *Visceratio*, l Antefig. in Ter. Adelph. Act. 4.

Moreover there was a potation, or drinking of wine after the buriall called *Murrata*, or *Murrhina potio*, which afterwards the law of the 12. tables for the avoiding of expenses did prohibit: as likewise for the moderating of greife in



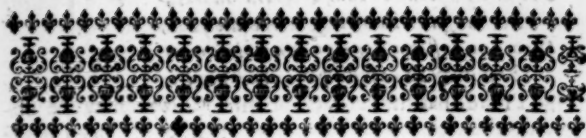
Alex. Gen.  
dier. l. 3, c. 7.

the mourners, it did prohibit the use of this word *Lessum*, [*Neve lessum funeris ergo habento*] for that word was often ingeminated in their mourning as a dolefull ejulation, or note of inward sorrow. This sorrowing or mourning, was in some cases utterly prohibited, in others limited; <sup>m</sup> namely, an infant dying before he was three yeares old, should not be mourned for at all; because hee had scarcely yet entred into his life. Elder persons were to be mourned for so many daies as they were yeares old. Wives were permitted to mourne for their husbands (*Alexander* addeth also children for their fathers) ten moneths, if they would; within which time, the widdow could not marry another husband without infamy and discredit. *Polyd. de juven. l. 6. cap 9.* Here we may with *Reverdm* observe a distinction between *Lugere*, & *Elugere*; *Lugere* signified no more then to mourne some part of the time prescribed, *Elugere* to mourne the whole and full time.

*LIB.*







## LIB. 2. SECT. 3.

*Of the Roman Games.*

## CAP. I.

*De ludis Megalensibus.*

He plaies usually exhibited by the *Romanes*, may be divided into three sorts: some were *Ludi sacri*, others *Honorarii*, others *Ludicri*. Those were termed *Sacri*, which were instituted immediatly to the honour of the Gods: Such were these that follow in their severall Chapters.

*Megalenses ludi*, they are called simply *Megalasia*, from the Greek word μέγας, signifying *Magnus*, because they were performed in the honour of *Cybele*, called *Magna mater*; of which I have spoken formerly, and there also discovered the manner of this feast. Only here take notice of that which is not mentioned there, namely, that these Games began, à pridè Nonas Aprilis, id est, on the fourth of *Aprill*, and continued six daies after: as appeareth by divers Authors, but more especially by *Ovid*, who could not easily be corrupted, *Ovid. Fast. lib. 4.* He having spoken of the rising of the *Pleiades*, which is on the second of *Aprill*, addeth,



*Ter sine perpetuo calum versetur in axe,  
Ter jungat Titan, terq; resolvat equos,  
Protinus inflexo Berecynthia tibia cornu  
Flabit, & Idæa festa parentis erunt.*

This I note, that the error crept into <sup>a</sup> *Livy* may be observed, who treating of the matter in hand, saith: *In eadem victoria, quæ est in Palatio, pertulere Deam pridie Idus Aprilis, isq; dies festum fuit: populum frequens dona Dea in Palatium tulit; Leæsternium, & Ludi fuerunt, Megalesia appellata.* That is, that these plaies were celebrated upon the twelfth of April. But in the judgement of many Expolitors, we are to read *Pridie Nonas*, for *Pridie Idus*. Moreover, servants might not be spectators here, and because the Prætors did frequent these sports in their purple and best robes, <sup>b</sup> hence grew that proverb *Purpura Megalensis*. To the younger sort at this time, liberty was granted, to counterfeite all mens gestures and speeches, without distinction of degree or age. <sup>c</sup> They were sometimes termed *Ludi scenici*, though properly, *Ludi scenici*, signified stage-plaies, and were performed in the honour of *Bacchus*.

<sup>a</sup> Ant. Const.  
in Ovid. Fast.  
lib. 4.  
<sup>c</sup> Ju. Scalig.  
Poet. l. 1. c. 29

## CAP. 2:

*Ludi Cereales.*

That these games were performed in the honour of *Ceres*, is by none doubted. In them was represented the Roman Matrons, *Ceres* her lamentation for her daughter *Proserpina*, taken away by *Pluto*; the Roman men beheld these playes in white gownes: the women performed the sacred and holy Rites in a white garment also. Among whom it was observed, that then they thought their service gratefull to the Gods, when it was performed by those that were joyfull, and free from all funerall pollutions. At this time there was a solemn going in procession, and carrying about their Gods in the Cirque, this solemnity was pro-



properly called *Pompa*.

*Circus erat pompa celebr, numeroq, Deorum;*

*Primaq, ventosis palma petetur equis,*

*Hic Cereris ludi, &c. Ovid. Fast. lib. 4.*

The manner of this solemne shew, which, as I noted, was properly called *Pompa*, is described thus by its particulars; <sup>d</sup> Ter. respect that there was *Simulachrorum series, imaginum agmen, cur-* cap 7.  
*rus, thense, armamaxa sedes, corona, exuvie, id est.* First, in this solemne procession, were carried about the Images of the Gods. Secondly, the Images of well deserving men. Thirdly, Chariots led up and downe for greater state and magnificence; unto this *Virgil* alludeth:

*Hic illius arma.*

*Hic currus fuit.*

Fourthly, Pageants, so I interpret *thense*, which were so called *quasi tensa*, a *tendendo*, as <sup>e</sup> *Asconius* noteth, because they were carried up and downe, by the help of certaine ropes, which to touch they counted a point of religion.

Fifthly, horse-litters, for that these *armamaxa* were not Chariots, or wagons appeareth by him, <sup>f</sup> *Qui ex curru in armamaxam deponebatur.* They seem to have been of a compoun-

ded forme, in part like Chariots, called *ἀγῶν*, in part like waines, called *ἀμαξα*, and thence *ἀμαμαξα* hath its appellation, *ἀμαμαξα*, inquit *Phavorinus*, *ἡ ὥς ἀνδρῶν καὶ ἰδὲ ἑστῶτων ἀμαξα*, *διὸ ἀμαξὶ ἀμαξα*, *ἢ ἀνδρῶν καὶ ἰδὲ ἑστῶτων ἀμαξα*, *τὸ ἀμαξα*. In which words, besides the etymologie expressed, the use thereof is declared to be for the carriage of men. That as the Chariots went empty for greater magnificence, and as in their Pageants were carried the *Simulachra Deorum*, according to that, <sup>g</sup> *Thense Deorum vehiculum*: so in these horse-litters were carried men; or rather

that same *agmen imaginum*, which was the second particular. Sixthly, chaires of State. Seventhly, crownes. Lastly, spoiles taken from their enemies. These three last I take to have been used chiefly and principally in the Roman suppli-

<sup>e</sup> Vid Franc.  
fun. annor. in  
Tert. de spect.  
It. de tensis  
vi. Turneb.

<sup>f</sup> 29. 27.  
Herodot. 17.

<sup>g</sup> Alex. ab A-  
lex. l. 2. c. 30.



b Vid. Isaac.  
Cafaub. in  
Sueton. Iul.  
c. 76.

i Hosp. de orig.  
test. Rosin l. 5  
c. 14. Alex. ab  
Alex. l. 6. c. 19

k Solis hono-  
re novi grati  
spectacula  
circi Antiqui  
sanxere pa-  
tres. Corrip.  
Afric. l. 1. c.  
17 vid. Dem  
pster.  
l Franc. Iun.  
annot in Ter.  
de spect c. 8.

cations, or publike thanksgivings for any great victory; the custome being in such shewes, when they came to such & such remarkable places in the cirque, to pitch a certaine chaire, adorned with crownes of victories and spoiles taken from the enemie, reputed it not the least office, <sup>h</sup> thus to honour their Emperour, though absent, with the prerogative of such a chaire. Now in the preparation to this particular shew, we read, that an egge was especially provided. It is observed by <sup>i</sup> many out of *Macrobius*, whose words are; *Omnia in Cerealis Pompa apparatus numerabatur primum.* The observation is generall, but the reason thereof, *Inter arcana Cereris*, quite suppressed, and by none that ever I could meet with, yet explained: if my conjecture may satisfie in a matter so obscure, conceive it thus. These pompous shewes were various, and in the honour of divers Gods, and accordingly the *Romans* made choice in every such solemnity, of some one principall thing in their shew, unto which the glory of the present solemnity should in more especiall manner belong. Thus in the *Pompa circensis*, which was celebrated in the honour of the <sup>k</sup> Sun, great horses were led up & down for greater state; <sup>l</sup> *Quia equis, & equestribus exercitamentis sol praesse credebatur superstitione antiquissima.* Hence the Cirque-place it selfe was called *πικρανδον*, & *πικρανδων*. After this same manner in this *Pompa Cerealis* (which was also sometimes called *Circensis*, from the place where it was exhibited) an egge was chiefly and principally provided: for seeing that under the name of *Ceres*, this solemnity was performed to the *Earth*, how could the *Earth* be more honoured, then by bearing about the hieroglyphick of the whole world? as if they did intimate thereby, that even heaven it selfe was beholding to the *Earth*.

— *Pecori frondes alimentaq; misit fruges*

*Humano generi, vobis quoq; tura ministro. Ov. Met. l. 2.*

m Cael. Rhod.  
lib. 27. c. 17.

And such an hieroglyphick <sup>m</sup> *Caelum Rhodiginus* proveth an egge to be, partly from its circular & globe-like form: partly

ly



ly frō the matter whereof it consisteth; the hard shēl resembling the solid earth; the more spirituous part thereof, the aire; the moist and liquid part, the water; the yolke, the element of fire; yea he noteth also, as there is *in mundo*, so likewise, *in ovo, vis vitalis*, a kind of quickning, and enlivening power in both. Otherwise if this opinion give not content, we may interpret the carrying about of the egge, to be in the honour of *Castor* and *Pollux*: for as there were markes, or goales in the Cirque, some in the forme of *Dolphins*, in the honour of *Neptune*: so were there others <sup>ⁱ</sup> *οὐρεσὶν ἄνυμφο* <sup>n</sup> Dio. lib. 49. *ῥιψαλά*, markes of a long roundnesse, in forme of an egge, in memory of <sup>o</sup> *Castor* and *Pollux*, which were *ovo editi*; according to that of *Horace*: <sup>o</sup> Tertul. de spect. cap. 8.

*Ovo prognatus eodem. Hor. serm. 2. Sat. 1.*

For the same reason happily it was, that an egge was at this time carried up & down, as the chief & principall ensigne.

### C A P. 3.

#### *Ludi Florales.*

**T**Hese Games or sports, were instituted in the honour of the Goddesse *Flora*, that she being therewith appeased, the earth might bring forth flowres, and fruits in great abundance. Of the Goddesse it hath been spoken before. The time of the year when these sports were observed, <sup>p</sup> was upon the foure last daies of *April*, and the first of *May*, whence is that of *Ovid. Fast. 5.* <sup>p</sup> Alex. ab Alex. lib. 6. c. 8.

*Incipis Aprili, transis in tempora Maii:*

*Alter te fugiens, cum venit alter, habet.*

The manner thereof was, that shamelesse strumpets did the run up and downe the streets naked, using many lascivious & obscene gestures, & speeches: they were called together by the sound of a trumpet, unto which *Iuvenal* alludeth,

*— Dignissima prorsus*

*Floralis matrona tuba.*

More



Moreover, whereas in other games, Boares, Lions, & Beares were publicly baited, to recreate the spectators: here only Goates and Hares, & such milder beasts were hunted, & because the Goddesse *Flora* had not the custody of woods, and Forrests, where the wild beasts ranged; but Gardens, and Medowes. At this time also, Elephants, were brought forth into the publike view of the people, which were taught to walk on ropes, & that there is an aptnesse in Elephants to goe forward and backward on ropes, *Pliny* testifieth.

q Hoſp. de orig. Feſt.

r Suet. in Gal. Plin. l. 8. c. 3.

## CAP. 4.

*Ludi Martiales.*

† Dio. lib. 60. OF these sports there is not much spoken: † they were observed upon the first of *August*, because on that day the Temple of *Mars* was consecrated. They were first instituted by *Numa Pompilius*.

u Tert. de ſpe. cap. 5.

## CAP. 5.

*Ludi Apollinares.*

† Liv. lib. 5. dec. 3.

x Macro. l. 1. Sat. c. 17.

y Suet. Pomp. Feſt. vid. Hoſ. de orig.

There was an ancient Poet, called *Martius*, † out of whose writings, as likewise out of the *Sibylline* Oracles, the *Romans* were admonished to dedicate certaine games to *Apollo*. At the first celebration of them, it is reported, that a suddain and unexpected invasion of enemies enforced the *Roman* people to forsake their sports, and to betake themselves to weapons: in which time of the distraction, a cloud of darts and arrowes was seen to fall upon their enemies, so that they presently returned Conquerours unto their sports, where † at their returne they found one *C. Pomponius*, an old man, dancing to a minstrell, and being very joyfull, that their sports had been continued with.



without interruption they cryed forth, *Salva res est, saltae senex*. Which speech afterward became proverbiall, and is fitly used, when a suddain evill is seconded with a good event, beyond hope or expectation.

## CAP. 6.

*De ludis Romanis, qui & magni, & Consuales, & Circenses dicti.*

THESE solemnities are sometimes called *Romani ludi*, because of their antiquity amongst the *Romans*, being first instituted by *Romulus*: sometimes *Magni ludi*, either because of the great charge and expence of money at that time, or because they were performed in the honour of their great God <sup>a</sup> *Neptune*, called also *Consus*, because hee <sup>a</sup> *Tertul. de spect. cap: 5.* was reputed the God of secret counsels, whence the solemnities themselves are sometimes called *Consualia*: whereas many of the *Roman* Temples, for certain mysterious significations, had their peculiar manner of building, <sup>b</sup> *Servius* no- <sup>b</sup> *Serv. in Vir. Æn. lib. 8.* teth, that the Temple in the great Cirque, dedicated to *consus*, was covered, to signify that counsels must be secreted, and concealed. Likewise for the same reason, <sup>c</sup> his Altar was <sup>c</sup> *Alex. ab Al. l. 5. c. 26.* made under the earth, not appearing in publique view, save only in the time of these solemnities exhibited. The chiefe ceremonies used at this time, consisted in the adorning of their horses and asses with garlands, wherein they thought that *Neptune* was honoured, who was the first author and inventor of horseriding: hence *Neptune* himself is called <sup>d</sup> *ἵππος*. <sup>d</sup> *Vid. Suid.* This festivall was first instituted by *Evander*, in the honour of *Neptune*, under the name of *ἵππος*, & <sup>e</sup> thence the feast was <sup>e</sup> *Dion. Hal. lib. 2.* called *ἵππιαινα*. Afterward it was renewed by *Romulus*, in the honor of *Neptune* likewise, but under the name of *Consus*, because *Romulus* needed a God of counsell to assist him in that designement of his, for the violent taking away of so



many *Sabine* women, as were taken away at the first celebration of these games. The reason of *Romulus* his institution of them, being no other, but that upon the same of these new sports, many *Sabine* women flocking thither to be spectators, his project might be the sooner effected. These and the cirque-shewes, so often mentioned in ancient authors, at first were all one, as appeareth by that of *Valerius*. *Ad id sēpus circensi spectaculo contenta erat civitas nostra, quod primus Romulus raptis virginibus Sabinis consualium nomine celebravit*. Touching these cirque-shewes, some are of opinion that they were performed in the honour of *Ceres*: this *Iulius Scaliger* & disliketh, & he is of opinion, they were celebrated in the honour of *Neptune*: others are of opinion they were instituted in the honour of the *Sun*. All opinions may be reconciled, if we understand first, those Authors who ascribe these cirque-shewes to *Ceres*, to speak of the *Cereales ludi*, which we read sometimes to be called *circenses* because they were exhibited in the cirque. Secondly if we distinguish the *Pompa circensis*, from the *Circenses ludi*, and from the *Cereales ludi*. The *cereales ludi*, were instituted in the honour of *Ceres*; the *Circenses ludi*, in the honour of *Neptune*; the *Circensis Pompa*, in the honour of the *Sunne*. And furthermore for the full understanding hereof, we must know that the horses brought into the Cirque at this time, were of two sorts: some were only *πεμπτοι*, such as were led up & down for shew & state; I understand *Alexab Alex.* to speak of these horses, when he saith <sup>h</sup> horses were consecrated to the *Sun*; nay I understand those horses mentioned 2. *Kings*, 23. to have bin of the like superstitious invention; where it is said, that *Josiah* did put down the horses given to the *Sun*, & the *chariots of the Sun*. That practise, I say, hath neer affinity with this of the *Romans*, but I think it to have bin originally derived to the people of *Judah*, from the *Persians*, who also accounted them holy to the *Sun*, & the *Persian* king when he would shew himself in great state, caused an exceeding great horse

f Val. max.  
lib. cap. 4.

g Iul Scal. lib.  
poet. cap. 3 2.

h Alex. ab A-  
lex. lib. 3 c. 12.

i Cael. Rhod.  
anug. l. 8. c. 2.



to be led up and down, which was called *Equus Solis*. Other horses were for exercise & race, we may call them *Secundis*; the institution of these I suppose to have bin in the honour of *Neptune*. The prizes of matters exercised in time of this cirque. shew were many; fencing, and that untill one of the combatants were killed in the place; fighting with beasts; wrestling; running of races on foot; jumping and leaping; horse-racing; sea-skirmishes exhibited in some river; coach-races; and fighting at worle bats. Howsoever the nature and manner of these games are in some measure understood by the very names, yet a more large discourse concerning the two last, will be very behovefull, for the more full understanding of the *Roman History*. These coach-races, when this manner of race was first instituted, were divided into two companies, which they tearmed *Factiones albas, & russas*: distinguishing each faction or company, by the different colour of their <sup>k</sup> coats. Afterward they were divided into foure companies, distinguished alwaies by their colours: whence came that distinction; *Factiones Prasina, Veneta, Russata, Albata*; which colours may thus be englished; the first signifieth a deep green; the next a kinde of russet inclining to red; the third a Venice blew, or Turkey colour; and the last a perfect white. Of these <sup>1</sup>*Tertullian* speaketh as followeth: *Aurigis coloribus idololatriam vestierant, & ab initio duo soli fuerunt, albus & russus. Albus hiemi ob nives candidas: russus estati ob solis ruborem voti erant: sed postea tam voluptate, quam superstitione proventa: russum alij Marti, alij album Zephyris consecraverunt: Prasinum vero terra matri, vel veno: Venetum celo & mari, vel autumno.* As the Emperour, so the people sometimes favoured one faction or company, sometimes another: & accordingly as they favoured the company, they would lay wagers on their side, which wagers they termed by a peculiar name *Sponsiones*; thus <sup>m</sup>*Turnebus* interpreteth *Tertullian*, where he saith that the people flockt to these races, sometimes for one reason, sometimes for another,

<sup>k</sup> Henr. Salm.  
in Pancir, cap.  
de Circo  
Max.

<sup>1</sup> Tertul. de  
spect. cap. 9.

<sup>m</sup> Turneb. ad  
lib. 8. cap. 4.



¶ Tertul. de  
spect. cap. 16.  
¶ Suet. in Do-  
mitian. cap. 7.

¶ Iul. Scaliger  
lib. poet. c. 22.

¶ Aldus Ma-  
nut. lib. 2. de  
quæst. per e-  
pistolam ep:  
8. vid. Rosin.  
ant. lib. 5. c. 5.

\* Rosin. ant.  
l. 5. c. 5.

ther, but sometimes = *sponsionibus concitatus*, id est, stirred up with a desire of betting, or laying wagers. To these four  
 • *Domitian* in his time added two other companies, the one wearing cloath of gold, the other of purple: but these latter remained not long in use. Their fighting at whorle bats they termed *bellare cestu*. The manner of the fight conceive thus; the combatants had in each hand a strap of leather, with which each struck at the other (for we must know that this kind of fight succeeded fisticuffs, and because in fisticuffs the party striking, did by the blow as well hurt his own fist, as he did him that was stricken, hereupon they invented this other kind of fight with lethern switches) these lethern switches they called *Cestu*, from the *ῥ* Greek *καστός*, signifying a belt or girdle: to make the fight more dangerous, they did in after-times tye peeces of lead, or yron at the end of these leatherne straps, so that they did with the force of the strok, often dash out one anothers braines, and because by the waight of the lead or yron, the strap might chance to fly out of their hands, they caused each strap to be tyed fast to their armes, and shoulders: neither was this without reason, for those yron or lead peeces could not be but very waigh-ty, being made in the bignesse, and *τ* form of Rams hornes. Lastly, these Cirque she ws had their appellation *Circenses*, either from the great Cirque, or shew-place, called *Circus Max*: where the games were exhibited; or from the sword *Circenses*. They much resembled those Grecian games called *certamina Olympica*, where the runners with Chariots, were hemmed in on the one side with the running river, & on the other with swords pitched point-wise, that they should hold the race on directly, and not swarve aside without danger. \* Some have thought them to be the same with *Indi Gymnici*, so called from *γυμνός*, naked; because that those which did performe those kindes of exercises, did either put off all, or the greatest part of their cloaths, to the intent that they



they might the more readily and nimbly performe their games; for which purpose they did also anoint their bodies with oyle; whence we say, when a man hath lost his cost and labour, *Operam & oleum perdidit*; *oleum* in this place signifying cost and charges; so that the proverb was the same with that of the Coblers crow, *Opera & impensa periit*.

## CAP. 7.

*Ludi Capitolini, & Agones Capitolini.*

THE first institution of these games <sup>r Liv. dec. 1.</sup> *Livy* sheweth, where likewise he intimateth the reason, why they <sup>& lib. 5.</sup> were called *Capitolini*, to have been in the honour of *Iupiter Capitolinus*, because he preserved the *Capitoll*, when it was assaulted by the *Gauls*. We must distinguish these games from those other shewes called *Agones Capitolini*, instituted by *Domitian*: For those *Ludi* were exhibited yearly, these *Agones* every fift yeare; in those was celebrated the deliverance of the *Capitoll*; In these *Rhetoricians*, and *Poets*, and men of other professions contended for the victory: and hence <sup>r Rosin. ant. lib. 5. c. 18.</sup> *Rosinus* thinketh the *Poets Laureats* to have taken their beginning. He is likewise of opinion, that *Juvenal* alludeth unto these solemnities,

--- Sed cum fregit subsellia versu

*Esurit, intactam Paridi nisi vendit Agnon.* Sat. 7.

Although the allusion may be granted, yet herein I thinke *Rosinus*, though otherwise learned, to have been mistaken, in interpreting *Fregit subsellia*, by *Non stetit, Excidit*, or *Nō placuit*; as if the Poet of, whom *Juvenal* speaketh, had been conquered at this time. In my opinion neither will the purpose of *Juvenal*; nor that phrase of speech admit that construction. Nor the purpose of *Juvenal*, for the scope and drift of that Satyre, is to shew, that be the Poet never so pleasing, or let him give full satisfaction to the people, yet he shal receive



ceave no benefit thereby, but a vaine and empty applause, so that he shall be compell'd to sell those very Poems, which are received with so generall an approbation, to buy victuals, and prevent hunger. Neither doth that interpretation agree with that phrase: for *Frangere subsellia*, doth rather on the contrary, signify the vehement acclamation given by the people in approbation of the Poem, it being a poetick elegancy, to expresse the vehemency and greatnesse of the applause. <sup>u</sup> *Sidonius Apollinarius* useth the selfe-same phrase; *Hunc olim perorantem, & rhetorica sedilia plausibili oratione frangentem socer eloquens ultro in familiam patritiam ascivit.* Neither is that of *Virgil* unlike;

<sup>u</sup> *Sidon. Ap.*  
*lib. 5. Epist. ad*  
*Sapand.*

*Et cantu querela rumpunt arbuta cicada.*

Yea the *Gracians* used the same manner of speech, <sup>x</sup> *κατ' ἑρμηνείαν* *ἡρώδης* *ὁ τῆς* *ῥητορικῆς* *καὶ* *τῆς* *καυρυγίας*. So that hereby I think the Poet understandeth, that *Grande sophos*, so often mentioned by *Margial*: it being a usuall custome amongst the *Romans*, to signify their approbation of their Oratour or Poet, by the lowd acclamation of *σοφός*, or *ὀρθός*. Vnto which *Horace* alludeth, *de arte poet.*

<sup>x</sup> *Polyb. in*  
*hist. 15.*

-----*clamabit enim pulchrè, benè, rectè.*

But to return whence we have digressed, these latter solemnities were of such note, that whereas the *Romans* formerly, made their computations of their greater yeare, called *Annus magnus*, by their *Iustra*, y now they made it by these *Agones capitolini*. Againe we must distinguish these *Agones quinquennales* instituted by *Domitian*, from those *Ludi quinquennales* instituted by <sup>z</sup> *Augustus Caesar*, in memory of the victory, which he got against *Antonius*, upon the promontory *Actium*, whence they were called, *Actiaci Ludi*,

<sup>y</sup> *Hospin. de*  
*orig. fest.*

<sup>z</sup> *Sueton.*  
*Aug. cap 18.*



## CAP. 8.

## De ludis secularibus.

**A**Vthors agree not upon the just period of time, when these secular games were to be renewed; some are of opinion that they were to be celebrated every hundreth year; some every hundreth and tenne, some once only in three hundred: but in this all agree, that they were named *seculares*, from *saeculum*, which signified at least an hundred yeares, <sup>a</sup> *saeculum in centum annos extendi existimabant*. Because the full and compleat age of a man, might extend it selfe to the hundreth yeare, and seldome to any above an hundred: thence it was, that the form of words used by the publike cryer in proclaiming these games, was <sup>b</sup> *Venite ad ludos quos nemo mortalium vidit, neq. visurus est*. Vnto which <sup>c</sup> *Ovid* alludeth. *Trist. l. 2.*

*Herodian. lib. 3. in vita Severi.*

*a Rosin. antiqu. l. 5. c. 21.*

*b Pol. Virg. de invent. l. 8.*

*c Ov. Trist. lib. 2.*

*Iusserat & Phæbo dici, quo tempore ludos  
Fecit, quos atas aspicit una semel.*

*Carmina...*

But the Emperours being ambitious of honour, and desirous to be spectators of the games in time of their owne raigne, they did often anticipate the time. *Claudius Caesar* amongst the rest, proclaimed them within <sup>d</sup> sixty three yeares after *Augustus* had observed them, which occasioned the people to deride his cryer, inviting the people to those shewes and sports, which no man living either had seen, or should see againe: because <sup>e</sup> some who were spectators, nay actors in those solemnities exhibited by *Augustus*, lived at the same time, when *Claudius* caused this to be proclaimed. These playes were also <sup>f</sup> called *Tarentini ludi*, not from the City *Tarentū* in great Greece, but from a certain place of the same name neer *Rome*, adjoyning to the river *Tiber*. All the Theatres at this time were filled, and sacrifices offered throughout all the Temples, for the space of three dayes, and three nights,

*d Alex. ab Alex. l. 6. c. 9.*

*e Suet. Claud. cap. 21.*

*f Hospinian. de orig. fest.*



nights, which giveth light to that of *Ansonius*,  
*Trina Tarentino celebrata vino etia ludo.*

The first day the Emperour and the *Quindecim-viri*, early in the morning ascended the *Capitol*, and there offered sacrifice according to the wonted manner; thence they departed to the Theatres, to performe solemn playes in the honour of *Apollo* and *Diana*. The second day the noble Matrons assembled together in the *Capitol*, they offered up supplications unto their Gods, they tasted and sung hymnes, in the honour of the Gods. The third day seven and twenty boyes, going along three and three, and as many maids in like manner, all of them nobly descended, and having both father and mother alive, sung verses; in which they commended the *Roman* state to the protection of the immortall Gods. This was termed *Paanas concinere*, which word *Paan*, though it signifieth primarily an hymne, or song of praise made to *Apollo*, who was called *Paan*, & from *παῖν*, à *feriendo*, because of his victory gotten of the *Python*: yet<sup>h</sup> sometimes, and so in this place, it denoteth the praises in generall of all the Gods. Againe the phrased intimateth an elevation of the voice in singing, with a kind of rising from one note to another. Thus *Turnebus* maketh *παῖν*, and *παῖν* to be opposite, *Videtur autem Paan contentionis vocem esse, minuratio remissionis.*

g Cœl. Rhod. antiq. l. 7. c. 5.

h Servius in Æn: lib. 6.

i Turneb. adv. lib. 1. c. 12.

#### C A P. 9.

*De ludis plebeis, compitalitiis, Augustabilibus, Palatinis, Taurilibus, & Votivis.*

Other Games there were performed in the honour of the Gods, which are rather named by Authors then explained, they are these that follow; *Plebeij Ludj*, & Alex. ab A-<sup>lex.</sup> which were celebrated in memory of the liberty procured to the *Roman* state, by the succession of Consuls in the place of



of Kings: or as others say, in memory of the reconciliation, wrought between the Senators & the Commonalty, by reason of their great oppression at that time, when the Commons in a kind of mutiny departed to the *Aventine* mount.

2. *Compitalis Ludi*, so called because they were usually solemnized in *Compitium*, (*id est*) in the crosse-waies, and open streets: they were first ordained by *Servius Tullius*, in the honour of those Gods, whom they termed *Lares*, in memory of his nativity. The form of words used by the *Prætor*, when he signified to the people the time of these solemnities, was as followeth, *Die noni post Calendas Januarii*

[Plin. lib. 36.  
cap. ult.

m Macrobi. l. 1.  
Satur.

n A Gel. no. 8.  
At. l. 10. c. 24.

*Quiritibus compitalia erunt.* Concerning which words, *Gellius* noteth, *Die noni Prætor dicit, non die nono, neq; Prætor*

*solum, sed plerq; omnis vetustas sic locuta est.* 3. *Augustales Ludi*, performed in the honour of *Augustus* *Cæsar*. 4. *Palatini Ludi*, so named, because they were performed in the *Palatine* mount. Some are of opinion that they were instituted in the honour of *Julius Cæsar*, others in the honour of *Augustus*.

o Alex. ab Alex. lib. 6 c. 19  
p Lib. 36. cap. ult.  
q Fest. vid. Hoespin. de orig.

5. *Taurii Ludi*, which received their name from *Taurus*, a bull: they were first ordained by *Tarquinius Superbus*, when there happened a great pestilence amongst the women with child, occasioned by much bull-flesh sold unto the people, for the removeall of which plague, these games were instituted, in the honour of the infernall Gods.

They are sometimes also called *Boalia*, & *Bupetii*. 6. To those may we adde their *Votivos Ludos*, which were also performed in the honour of some God, upon some speciall vow made. For whensoever the *Romans* did undertake any desperate war, then did some *Roman* Magistrate *Vovereludos, vel templa*, conditionally that they got the conquest; whiles the Magistrate uttered this his vow, he was said *Vota nuncupare* or *facere vota, id est*, to make a solemne vow unto the Gods: the vow being thus made, he which made it did write it in paper, & with wax fastned it to the knees of their Gods, thereby binding himselfe the more strongly to

r Turneb. ad-  
ver. l. 1. c. 17.



the performance; & this in *Pliny* his phrase is *signare vota*; *Juvenal* termeth it, *Genua incerare deorum*. Sat. 10.

After this he was said to be *Voti reus*, *id est*, conditionally bound and obliged to the performance thereof, so that the Gods might challenge the thing vowed as due debt, if they granted his request, yea after that the thing craved had been obtained, then was he said, *Damnatus voti, vel voto* (*id est*) simply bound to the performance of the vow, so that by consequence, *Damnari voti, vel voto*, is to have ones desire accomplished. Thus have we gone over the chiefe and principall games which were meereley *Sacri*, tending to religion: the second sort were, *Ludi honorarii*, of which in the next Chapter.

## CAP. 10.

*De Gladiatura.*

SUCH sports and plaies, which were performed by private men upon their own purse and charges, they seeking thereby to winde themselves into the affections of the common people, and to make way for their own preferment and honour, were termed *Ludi honorarii*; and howsoever any game or shew might be tendred unto the people in this respect, yet those of this nature were for the most part, either *fencing* or *stage-playes*: *fencing*, because the sight thereof was so often freely bestowed upon the people, is therefore many times denoted by the Latin word, *Munus*; and those that bestow these sights, are for the same reason termed *Munerarii*. The first originall of this fencing, and sword-playing, to the killing of one another, hath been derived <sup>c</sup> from a customary practice among the Heathens, at the burials of their friends, who were perswaded that the shedding of mans blood would be propitiatory for the soule deceased; hence would they buy captives & slaves, purposely to be sacrificed at burials; after ward that this wicked spectacle

<sup>a</sup> Isaac. Casaubon. in Suet. Aug 32.

<sup>b</sup> Lips. Sat. l. 1. cap. 7.

<sup>c</sup> Tertul. It. Servius in Æneid. 10.



ele might be the more pleasant & delightfull, they changed their sacrifice into a fencing with art, where the combatants did fight for their life. This particular kind of fencers were called *Bustuarii*, from *Bustum*, the place where dead mens bodies were burned; but ambition and cruelty made these bloody spectacles in after ages more frequēt, inso much that prizes at last were plaid not only at the tombes, but in diverse other places, as the *Cirque & Amphitheatre*, &c. yea they were given as legacies by will and testament unto the people. These prizes have continued many daies together, & the number of the combatants sometimes exceeded number. At the first none would thus hazard their lives, but captives, and fugitive servants, which were enforced thereto, being bought for that purpose; afterward those that were free-borne suffered themselves to be hired, for which cause they were termed *Auctorati* hirelings; yea noble men themselves sometimes by reason of their decayed estates, sometimes to demerit the Emperour his love, endangered their lives in this fight: those that were hired, bound themselves by a solemne oath to fight unto death, or else they would yeeld their bodies to be whipt, yea and to be burnt, unto which <sup>e</sup> *Horace* alludeth;

d Sen. ep. 109

e Serm. 27.

*Quid refert, vri, virgis ferroq; necari?*

*Auctoratus eas, an turpi clausus in arca?*

The manner of this bloody spectacle was thus; the Master, or exhibiter thereof, did by a publike bill, give notice unto the people, what day the prize should be performed, how many couples were to combat, what their names, &c. there by to procure the greater expectation, & concourse of people: of this speaketh <sup>f</sup> *Sueton*, *Munus populo pronuntiavit in filie memoriam* & Yea they did in tables hanged in publike-view, paint and represent, not onely the description of the place, but also the very forme and gesture of the fencers;

f Sueton. in

Iulio.

g Plin. 357.

—velut si

*Revera pugnent, feriant vitentq; moventes*

N 2.

*Arma*



*Arma viri, Horat. lib. 2. Sat. 7.*

Vpon the day appointed when all met, then were the weapons brought forth, and those, they were of two sorts: *Lusoria*, or *Exercitoria tela*, such as were the speare & wands, or cudgels, that they might tosse the one, & fence with the other, and shew other feats of activity, all being but preparations to that more solemne & dangerous fight ensuing. The Greeks called them ἱσφαλαῖα ἀθύρνα, because of the little balls tied at the sharp end of the weapons, to prevent dangers. Other were <sup>b</sup> *Decretoria tela*, so called, *Quia hac velut decreto Pratoris, sive Editoris dabantur*. These were those, with which they really encountred each other for life or death, and therefore sometimes they are called *Pugnatoria*, <sup>i</sup> *Seneca* speaketh of both; *Remove ista lusoria arma, decretorii opus est*. And that the Apostle doth not allude to both, I dare not gaine-say, 1. Cor. 9. 26, 27. where he saith, ὅτι πικτύω ὡς ἐν ἀέρι. Σίπαι, ἀλλ' ὑπομάζω καὶ τὸ σῶμα. He did not beat the ayre, and flourish with those lufurious, and preparatory weapons, but he did truly fight against his naturall corruption, to the wounding and subduing of it; for <sup>k</sup> to ὑπομάζω signifieth *putrified wounds*. That phrase of <sup>l</sup> *Seneca's* alluding to the fore-flourishings, is not much unlike; *Alind est ventilare, alind pugnare*. This fore-skirmish with cudgells was properly termed *praludium*: *Megara* speaking of *Hercules* his conquest over the two Serpents, assailling him being yet an infant, saith, <sup>m</sup> *Pralusit Hydra, id est*, that combate was but the prologue, preface, or introduction to that greater which should ensue between him and the *Hydra*. Afterward when they betook themselves to naked weapons, and to a reall fight, then were they said *Dimicare ad certum*, and *Versis armis pugnare*. This word *Versis* being put for *Transmutatis*. In the act of fighting, they did frame & compose their body according to the rules of their art, for the better warding of themselves, and the readier wounding of their adversary. This frame and posture of the body

<sup>b</sup> Lips. Sat. l. 2.  
cap. 19.

<sup>i</sup> Sen. epist.  
117.

<sup>k</sup> Suid, in voce  
ὑπομάζω.  
<sup>l</sup> Sen. l. 3. cont.

<sup>m</sup> Sen. Herc.  
fur. vers. 221.

<sup>n</sup> Lips. Sat. l. 2.  
cap. 19.



body, was by a peculiar name called *Starnus*, or *Gradus*, whence arose those elegant Metaphors, *Cedere de gradu*, *Demigrare de gradu*: To change ones purpose, & as it were to draw back from what he formerly intended. In like manner we say, *Dementis statim deiecitur*, or *deturbatur*; he is driven to change his minde, or in generall, he is amazed. In the conflict, oftentimes the sword-players after they had received any dangerous wounds, laid down the weapons, which though in extremity was a token of cowardise, neither were they thereupon acquitted or discharged; but this depended upon the consent either of the Emperour, or the people, or the Master of the shew. This discharge was properly called *Missio*. Such was the cruelty of those times, that many prizes were proclaimed, wherein they fore-signified, that such discharges should neither be craved, nor granted: whereupon *Augustus Caesar* made a decree, wherein *Gladiatores sine missione edi prohibuit*. Those combatants that overcame, received by way of reward, sometimes mony, sometimes a garland, or coronet of palme-tree; wound about with certain woollen ribbands called *Lemnisci*; the coronet it selfe was therefore called *Palma lemniscata*, & hence figuratively hath *Palma* been translated to signify the victory it self, & such a man as hath often gotten the prize, we say proverbially that he is *Plurimarum palmarum homo*. The reason why the Palme-tree, rather then any other tree, should be given in token of victory, is rendred by a divers approved authors to be this: because the Palme-tree, though you put never so ponderous and heavy weight upon it; yet it will not yeeld, but rather endeavour the more upward. Sometime the reward given by the people, was one of those wands, or cudgels used in the fore-skirmish. That wand was properly called *Rudis*, and it was given in token of liberty, signifying thereby, that he should thence forward lead his life free from shedding of blood: alluding to which custome, this word *Rudis* hath been used to signify any other kinde of freedome.

*Suer. Aug.*  
45.

*p Franc. Sylv.*  
*in orat. pro*  
*Sext. Rosc.*

*q Arist. prob.*  
*7. Plut. symp.*  
*8. q. 4. A. Gel.*  
*1. 3. c. 6.*

*r Eras. Adag.*  
*Rudem. accip.*



freedome or discharge; Whereupon *Horace* said of himself, that he was *Rude donatus*, *id est*, discharged from his paines in Poetry. Lastly, sometimes he that conquered, received *Pileum*, a cap. And here it will not be amisse, to note the difference between *Palma*, *Missio*, *Rudis*, & *Pileus*; *Palma*, was only a token of victory, not of liberty, or discharge. *Missio* was not a full discharge, but a kind of vacation, or respite granted upō request, until the morrow, or some other time: againe it was granted to those that were conquered, not to the conquerers. *Rudis* was a token of full discharge from bloody combats; whereby a mans life might be indangered; but yet with this distinction, that if it were bestowed upon free Citizens, hired to be actors in these masteries, thē were they thereby restored to their freedome also, which formerly they forfeited by undertaking such base conditions: to others which were formerly servants, or captives, it was only a token of liberty & discharge. Notwithstanding sometimes upon favour, such servants or captives obtained together with their discharge from such fights, a priviledge also of enfranchisement, whereby they were thenceforward incorporated amongst free Citizens: the token hereof was *Pileus*, for then they received a cap, which latter observation helpeth for the understanding of *Tertullian*, where he saith; *Qui insigniori cuiq; homicida leonem poscit, idem gladiatori atroci petat rudem, & pileum premium conferat*. In which speech the unjust, & the unreasonable practice of those heathens is displaid, whiles they judge a man-slayer to be exposed to Lions & wild beasts: & yet notwithstanding wil reward the bloodines of sword-plaiers. These fencers fought with divers manner of weapons, & accordingly had severall names, the chiefe of which we read are these, 1. *Retiarii*, so called from *rete jaculū*, signifying a float-net used in fishing, because this sort of Fencers, did fight with a cast-net in one hand, to catch, and clasp about their adversaries head; and a three forked engin in the other, which they used instead of a sword

(Tertul. de  
spect. cap. 21.



sword: of this *Invenal* speaketh, *Sat. 8.*

— *Movet ecce tridentem.*

They did alwaies fight in their coats: whence the Epithetō floweth. *Retiarii tunicati*. The reason why they bore up and down sponges, which *Tertullian* calleth *spongia retiariorū*, may be for the drying up of the blood, and wiping, or stopping of the wounds: which use of sponges, *Pliny* noteth. *Plin. lib. 31. cap. 11.* Now because these *Retiarii* were so light armed, they were compelled every time they stroke with their net, to retire back untill they recovered their net againe: and hence the second sort of fencers, which fought with thē, were termed *Secutores, ab insequendo*, from following & pursuing these *Retiarii*. The weapons wherewith these *Secutores* did fight were a target, to keep off the net of the adversary; a sword, & an helmet. *3<sup>ly</sup> Thraces*, so called from the *Thracian* weapons which they used, their target was round & litle, called *Parma* it was at first in use among the *Thracians*, & afterward so proper to this sort of sword-players, that *Parma-larius* signifieth such a one as favoured this company, or faction of fencers. Their sword was a crooked falchion, termed by them *Sica*. The Roman souldiers did use to weare two of these, a long one on the left side, & a shorter on the right side, answerable to our sword and dagger, but the forme of the *Sica* was alwaies crooked, according to that; *Sica δεξιου & αριστερου μαχαιρας*. Privy murderers practising the killing of men, may seem to have used the lesser, as a pocket dagger; such are those *Sicarii*, of which there is such often mention in *Tully*. *4<sup>ly</sup> Myrmikones*, they are sometimes called *Galli*, because they were appointed after the manner of the *Gauls*. Their weapons were a sword, a target, an helmet with a crest in forme of a fish. *5<sup>ly</sup> Hoplomachi*, the name imports them to be armed in their fight, it is derived from the Greek *ὁπλον* vel *ὁπλον* arma, & *μαχουαι* pugno: untill *Augustus* his time they were named *Samnitas*, their armour was an helmet with a tuft on the crest, a sword, a shield, & a boot on the

*Plin. lib. 31. cap. 11.*

*u* *Lipf. Satur. lib. 2. c. 7.*

*† Turn. Adv. lib. 5. cap. 10. x* *Suet. in. Domit. cap. 10. y* *Alex. ab Alex. l. 6. c. 22.*



\* Veget. vide  
Lipf. de milit.  
lib. 3, dial. 7.

1 Lipf. Sat. 2.

the left legge. 6<sup>ly</sup>. *Provocatores*, sometimes called *Probattores*, these usually fought with the *Hoplomachi*; their armour was a sword, a target, an helmet, and boots on both legges. For as the footmen amongst the souldiers; so likewise some of the sword-players used boots, for the safeguard of their legges; these boots were made of \* iron, and so common amongst the Grecians in warre, that boots alone are oftentimes put to expresse the Grecians whole armature, as appeareth by that usuall epitheton in *Homer*, *τοὺς ἄνδρας Ἀχαιοὶ*, *id est, Bene ocreati Græci*. These boots they wore sometimes on both legges, sometimes on one, according as the manner of fight required. 7<sup>ly</sup>. *Essedarii*, such as fought one against another out of wagons, so called from *Essedum*, a wagon or chariot. 8<sup>ly</sup> *Andabata*, *quasi ἀνὰ ἀλὰς*, *ascensores*, because they did fight on horse-back, or out of chariots. This sort of fencers did fight winking, whence ariseth that adage, *Andabatarum more pugnare*: the phrase is fitly used, when two ignorant persons are hot in contention about that which neither understandeth. 9<sup>ly</sup> *Dimacharii*, called also *Orbela*, they fought each against the other, with two swords a peece, as the first name importeth. 10<sup>ly</sup> *Laquearii*, such as fought with swords & halters, the use of the halters was the same as the *Retiarii* made of their nets, to cast about their adversaries neck or arme, that they might the easier wound them with their sword. Of all these sorts of fencers <sup>1</sup> *Lipfius* treateth largely, to whom I refer the reader. Only here let him take notice that it was in the power of the people, to discharge any of these combatants in time of the fight, which discharge they signified *premendo pollicem*, by holding down their thumb: or else to adjudge him to continue the fight, though in never so great danger, and this latter they signified *convertendo pollicem*, by turning up the thumb;

— *Et verso pollice vulgi*

*Quemlibet occidunt populariter. Juven. Sat. 3.*

Moreover that there might be alwaies in readines, a suffici-  
ent



ent number of sword-players, hence were their schooles erected, into which captives, fugitive servants, and notorious offenders, were sometimes condemned, sometimes sold. The Masters of these schools were called *Lanista*, the scholars or under-fencers, trained up there for more publick and dangerous fights, were called *Familia*. The word *Familia* is often taken in this sense, to signify the whole company of under-fencers, belonging to one schoole, and the Master of defence, is for this reason, more then once by <sup>m</sup> *Sueton* called *Pater-familias*. Moreover, when one challenged another to these combats, they signified their challenge by beckning with their little finger. *Horace* alludeth unto this,

*m* *Sueton*, Ca.  
lig. 26. It. in  
Domit. 10.

*Crispinus minimo me provocat, accipe si vis,*

*Accipe iam tabulas. lib. 1. Serm. 4.*

This must be understood of a beckning, and that with the little finger; for otherwise in time of the fight, if either of the combatants did hold up his finger, <sup>a</sup> he signified thereby <sup>n</sup> *Alex. ab A-* that he did yeild, and give place unto his adversary: some <sup>lex. l. 4. c. 26.</sup> think that *Perfius* had respect unto this custome, in that phrase,

*Digitum exere, peccas, Sat. 5.*

## C A P. II.

### *De ludis Scenicis.*

**T**He second sort of playes bestowed on the people for their favour, were *ludi Scenici*, stage-playes. The reason of this name *scena* may be seen before. <sup>x</sup> The first institution of them was occasioned by reason of a great sickness, which by no medicinary help could be removed; The *Romans* superstitiously conceiting, that some new games or sports being found out, the wrath of the Gods would thereby be unarmed. <sup>y</sup> Whereupon, about the fowre hundredth yeare after the building of *Rome*, they sent for certain stage-players out of *Hetruria*, which they called *Histriones*, from

<sup>x</sup> *Lazius de*  
*Repub. Rom.*  
*lib. 10. cap. 11.*

<sup>y</sup> *Alex. Gen.*  
*dioc. l. 6. c. 19.*



the *Hetrurian* word *Hister*, which signifieth such a player. *Quia Hister Thusco verbo ludus appellatur, id nomen Histri-  
onibus est inditum. Polidor. de iuven. lib. 3. c. 13.* Concerning  
the diuerse kindes of stage-playes I read of fowre, called by  
the *Gracians*, *Mimica*, *Satyra*, *Tragedia*, *Comedia*: by the  
*Romans*, *Planipedes*, *Attellana*, *Prætextata*, *Tabernaria*. In  
English, *Fables*, *Mimicall*, *Satyricall*, *Tragicall*, *Comicall*.  
These *Mimicall* players did much resemble the clowne in  
many of our English stage-playes, who sometimes would  
goe a tip-toe in derision of the mincing dames; sometimes  
would speak full-mouthed to mock the country clownes;  
sometime upon the top of their tongue to scoffe the citizen.  
And thus, by the imitation of all ridiculous gestures or spee-  
ches, in all kind of vocations, they provoked laughter;  
whence both the plaies & players were named *Mimi*, from  
*μιμνέω* an imitator, or one that doth ape like counterfeite o-  
thers; as likewise they were called *Planipedes*, because the  
Actors did enter upon the stage *planis pedibus, id est, Excals-  
ceati* barefooted. The second sort of playes were called *Sa-  
tyre*,<sup>a</sup> from the lascivious and wanton country-Gods called  
*Satyræ*, because the Actors in these *Satyricall* playes, did use  
many obscene poems, and unchast gestures to delight their  
spectators. Afterward these kinde of actors as we may con-  
ject, did assume such liberty unto themselves; that they did  
freely and without controlement, sharply tax & censure the  
vices even of kings, as wel as of the commons, inso much that  
now we call every witty poem, wherein the lives & man-  
ners of men are sharply taxed, A *Satyre*, or *Satyricall* poem.  
<sup>b</sup> *Satyra mordax fuit & salsum genus carminis.* These *Satyricall*  
playes were also called *Attellana*, from the city *Attella*  
in *Campania*, Where they were often acted. The third sort  
of stage-playes, were called *Tragedia*, from *tragos* a Goat,  
& *ὤδῃ* an Ode or song; because the actors thereof had a Goat  
given them as a reward. And likewise they were called *Præ-  
textata* from *prætexta*, a certain *Roman* robe, which these a-  
ctors

† Alex. ib.

<sup>a</sup> Antesignan.  
in suis obser.  
de metris com-  
icis. Teren.  
præfixis.

<sup>b</sup> Vid. Erasim.  
adag.  
Καμψιδῆς  
αὐτοειδός.



tors did use to weare in their playes. The fourth sort were *somœdia*, from *κῶμα* which signifieth villages, & *ὄν* because those kind of actors did goe up and down the country, acting those *Comedies* in the villages as they passed along. They were likewise called *Tabernaria*, à *tabulis*, *id est*, from the boards or pentices wherewith they were sheltered from the weather, whiles they were acting. These two last sorts of plaies, namely *Tragedies* and *Comedies*, being still in use among us, it will be worth our labour to consider the communities, wherein they agree; otherwise the proprieties or notes of distinction by which they differ. I find three sorts of parts, wherein they agree, namely *partes primaria*, *accessoria*, *circumstantes*; parts principall, accessory, and circumstances, which are not so truly parts, as accidentall ornaments added to beautify the playes. The principall parts are fowre in respect of the matter treated of, for as far as the declaration or exposition of the matter in hand reacheth, without intimation of the event to ensue, so far reacheth the 1. part called *ὑπόστασις*, which word signifieth no more then a proposition or declaration. But when the play enclineth to its heat and trouble, then ensueth the second part called *ἐκτίσις*, which signifieth the intention or exaggeration of matters. The third part is called *κατάστασις*, *id est*, the state and full vigor of the play. The last part which is an unexpected change into a suddain tranquillity and quietnesse is called *καταστροφή*; whence by a *metaphor* it hath been translated to signify the end or period of any other thing; or rather the inclinatio unto the end, as *vita humana catastrophe*, the end of a mans life. In respect of the players forsaking the stage, the parts were five; namely the five Acts. For the Actors did five times in every *Comedie* and *Tragedie* forsake the stage, & make as it were so many interruptions. The occasion whereof is supposed to have bin this, that the spectators might not be wearied out with a continued discourse or action, but that they might sometimes be delighted with variety intermixed. For



those breaches and chasmes between each act, were made up and supplied, either by the *Chorus*, or *Musick*. Where we must note, that every *Tragedy* and *Comedy* must have five *Actus*, and no more, according to that of *Horace*;

*Neve minor quinto, neu sit productior actus*

*Fabula,---*

Again we must remember that it is not necessary that the *Actus* should alwaies be contained in the first Act: though many times it hapneth so: for in *Plautus* his bragging souldier the *Protafis* is found in the second Act: and so likewise have the other three parts, *id est*, *Epitafis*, *Catastafis*, and *Catastrophe*, their bounds unbounded. These Acts are divided into severall scenes, which sometimes fall out more, sometimes fewer in every Act. The definition of a scene being

o Vid. Erasim.  
Adag.

e *Mutatio personarum*: Whence we call a subtle *Gnathes*, which can humour himselfe for all persons and times, *omnium scenarum homo*, a man fit for all parts. Now amongst the *Romanes* it was thought unfit, that above three persons should come on the stage in one scene;

*Nec quarta loqui persona laboret. Hor.*

The *partes accessoria* in a *Comedy* are fowre; *Argumentum*, *Prologus*, *Chorus*, and *Mimus*. The first is the matter or subject of the *Comedy*: the second is the *Prologue*, which is either *προδραματις*, such as doth open the state of the fable, at which time there needeth no argument: or else *προσδραματις*, such as commendeth the fable, or the Poet unto the people; or lastly *ἀνταγορις*, such as shall refute the objections and cavills of adversaries. The third is *Chorus*, which speaketh between each Act; and this *Chorus* may consist either of one, or many speakers, and that either male or female: <sup>d</sup> but with this caution, that if a male be to be commended, then must the *Chorus* consist of males; if a female be to be commended, then must it consist of females. And alwaies whatsoever the *Chorus* speaketh, it must be pertinent to the Act past, or covertly intimating somewhat ensuing.

J. Robin, ant.  
cap. de trag.  
& com. lib. 5.

--- Non



Non quid medios intercinat alius,

Quod non proposito conducat & harent apicē. Horat.

It may seem sometimes that in the midst of the play some other sport was interposed, as hunting, or fencing, or such like to delight the spectators with the greater variety, whence Hor: Si discordet eques, media inter carmina poscunt  
Aut ursum aut pugiles.

These interposed varieties were denoted by the name of *Diludia*; *Displicet iste locus, clamo, & Diludia posco.* Horat: The fourth and last accessory part, was *Mimus* the clowne, or foole of the play. Of all these parts a Tragedy hath only a *Chorus*. The *partes circumstantes*, or accidentall ornaments were four, common to both, *Titulus*, *Cantus*, *saltatio*, *Apparatus*, *idest*, the title of the play, Musick, Dancing, and the beautifying of the Scene. By the Scene in this place, I understand the partition between the players vestry, & the stage or scaffold. This partition at the acting of a Tragedy was underpropped with stately columnes and pillars, and beautified with paintings resembling princely buildings & the images as well of Gods as Kings. At the acting of a Comedy country-cottages and private buildings were painted in the out-face of the partition. In the *Satyrical* plaies the painting was overcome with shadowes of mountaines and woods: The first of these partitions they called *Scenam* Tragicam, the second *Comicam*, the third *Satyrical*. The differences between a Tragedy & a Comedy, which may be collected out of *Antesignanus*, are these: first in respect of the matter, because a Tragedy treateth of exiliments, murders, matters of griefe, &c. a Comedy of love-toyes, merry fictions and petty-matters, the one being *δευρὺν μέγιστον*; the other *πύκνιστον*. In a Tragedy the greatest part of the Actors are Kings and noble persons; in a Comedy private persons of meaner state and condition. The subject of a Comedy is often feigned, but of a Tragedy it is commonly true and once really performed. The beginning of a Tragedy is

*e Alex. Gen. dier. l. 5. c. 16.*

*f Antesig. in suis observ. de metris comicis Terent. præfixis.*



calme and quiet, the end fearefull and turbulent; but in a comedy contrarily the beginning is turbulent, and the end calme. Another difference which *Antefignanus* hath omitted is behovefull for us to know, namely that the Tragedians did weare upon the stage a certaine shooe, comming halfe way up the legge in manner of buskins, which kind of shooe was called by them *Cothurnus*, and from that custome it hath been occasioned, that *Cothurnus* is translated to signify a Tragicall and lofty stile, as *Sophocleo digna Cothurno*, matters befeeming *sophocles* his stile: and sometimes a Tragedy it selfe. The Comedians did use an high shooe comming up above the ankle, much like a kind of shooes which plow-men use to weare to keep themselves out of the dirt. This kind of shooe is called *Soccus*, by which word sometimes also is signified a Comedy, as

*Nigris medi-*  
*um impediit*  
*crus Pellibus.*  
Horat. Ser. l.  
1. Sat. 6.

*Hunc socci cepere pedem grandescq; Cothurni.* Horat.

g Antefig. ib. § All these sorts of stage-plays both *Mimicall*, *Satyrical*, *Tragicall* and *Comicall*, if they were acted according to the *Gracian* rite and custome, then were they called *Palliata*, from *Pallium*, a certain mantle which the *Gracians* did use to weare, if according to the *Roman* manner, then were they called from the *Roman* gowne *Togata*.

# C A P. 12.

## De Trojano ludo, sive Troja.

IT was a custome among the *Romans*, sometimes in the I yeare to have a generall muster of the younger sort, who meeting in the *Cirque*, exercised there running, racing, riding at tilt, and other such like feats of activity, whereby they might be trayned up for their better service in the war. They chose a Captaine, one or other of noble birth; He was called *Princeps juventutis*. They divided themselves into distinct companies, sometimes marching forward, one against

a Hospin. de  
orig. fest. 1



gainst another, sometimes retiring backward; sometimes skirmishing, sometimes imbatling themselves in one form, sometimes in another, as if it were a true field pitch. A large and full description hereof we have in *Virg. Æn. 5*. This game was called *Trojanus ludus*; or simply *Troja*, without the addition of any other word, because *Ascanius* *Æneas* his sonne first brought it out of *Troy*, according to that of *Virgil* in the fore-quoted place.

*Hunc morem, cursum, atq; hac certamina primus*

*Ascanius, longam muris cum cingerit Albam,*

*Restulit, & priscos docuit celebrare Latinos.*

Among other sports used at this time, there was also a kind of morisk daunce, wherein the younger men daunced in harness, after a warlike manner, being thereby trained, to exercise all parts of their body, by sundry gestures, as well to avoid all venues and defend themselves, as to annoy and offend the enemy. This kind of dance is generally called *Pyrrhica saltatio*; because it was invented by *Pyrrhus*. Yea some say, that *Suetonius* taketh *Trojanus ludus*, and this *Pyrrhica saltatio*, for one and the same thing. Nay *Alexander* confoundeth both these, with those other games termed *Juvenales ludi*. But doubtlesse herein he was mistaken, for those *Juvenalia*, were instituted by *Nero* at the shaving of his beard, and had not their name, because young men were the chiefe actors, but because old men would now by the practise of youthfull sports, turne young again. The actions at this time were so farre, from favouring of military discipline, that on the contrary, they were for the most part effeminate and wanton.

*d Suet. in Iul. cap. 39.*

*e Alex. ab Alex. l. 6. c. 19.*

*f Plin. l. 7. c. 56.*

*g Serv. in l. 5. Æn. It. Alex.*

*ab Alex. loco supra citato.*

*h Sueton. in Neron. c. 11.*

*i Cœl. Rhod. lib. 19. cap. 22.*

*k Rofin. Rom. ant. l. 5. c. 22.*



## CAP. 13.

*De tessera, talle, & latrunculis.*

**B**Efore we treat of the game called *Ludus tesserarius*, it will not be amisse 1. to cleare the word *tessera* from all ambiguity. The word hath fowre remarkable significations, all alluding to matters of antiquity. First it signified a watch-word among the souldiers in the campe, whereby they discerned their enimies, or spies, from their owne fellowes; 2. *Alex. ab Alexandro* giveth many examples hereof: *Augustus Caesar* in his camp, gave for his watch-word *Venus genetrrix*; *Pompeius magnus* gave for his, *Hercules invictus* &c. & this was called *Tessera militaris*. 2<sup>ly</sup> There was *Tessera frumentaria*, a certaine ticket, or token given by the Magistrate unto the poore, at the tendring whereof, at the beginning of every month, certain doles and measures of corn were given, it is evident that at first there were such monthly distributions of corne, even by that endeavour of *Augustus* his, who for the avoiding of trouble, would had reduced all to three set distributions in the yeare, but prevailed not: sometimes instead of corne, or happily over and above the corne, there were at certain times, doales of mony given to the poore, which doale whosoever receaved, tendred his token or bill of exchange, termed *Tessera nummaria*; these two last acceptions, though they may be distinguished, yet because they both tended to the releife of the poore, I have joyned them together. Thirdly, there was *Tessera hospitalis*, a certain token of wood, or such like matter, which usually was cut in two by thole who had engaged themselves mutually to entertaine each other, whensoever entertainment should be craved, yea this wooden ticket or tally being mutually accepted, it was lawfull for their posterity bringing this token, to challenge hospitality. Thus he in *Planus*, having

o Alex. ab A.  
lex. lib. 4. c. 2.

p Sueton. Aug.  
cap. 40.



ving formerly used *Antidomus* as his hoast, after *Antidomus* his death, he commeth unto *Antidomus* his adopted sonne not doubting of entertainment: for saith he; *Deum hospitalem, ac tesseram mecum fero*. Hence from this custome, or tendring a token when hospitality should be craved, that adage hath been derived, *Tesseram hospitii confrigit, id est*, he hath broken the league of hospitality. Lastly, *Tessera* signifieth a dye: where we must note that the word *alea*, which commonly is translated a dye, is a generall word, applyed equally both to the *Tessera*, and the *Tali*, to denote the uncertainty of both games: *Tessera* properly signifieth a dye; *Talus*, a huckle-bone, such wherewith children play *Cockall*. In determining the severall chaunces in these playes, authors are not only diverse, but in many things contrary each to other, neither can any certainty be gathered from their writings; whether my conjectures, drawn from comparing their severall and contrary writings, may give light for the right understanding of decayed knowledge herein, I shall willingly submit my selfe to the censure of the judicious. The severall chaunces which I read of are these, some arising from the number of the points in the dye, as *Senio*, *Monas*. More usually amongst the Gracians, & these two <sup>q</sup> *Suid. in voce* were termed *κῶος*, & *χίος*: *ὁ μὲν γὰρ χίος ἐκλύετο ἐν, ὁ δὲ κῶος καὶ οὐκ*, *id est*, *Chius*, answered our Ace; *ous*, our Site. And this is confirmed by a proverbe in use amongst the Gracians; *κῶος μὲν χίος*, which the learned interpret to be, a comparison of unequals; a Pygmie, with a gyant: others named from the number I read not of. Perhaps they played not with a single dye, but with three, as we use in *Palsage*, whence their chaunces might have their name, not from the number of points in each severall dye, but from them all being cast. But that the *Tessera* had points in them, appeareth by the testimony of <sup>a</sup> *Turnebus*: And hence *Numeri*, is sometimes <sup>a</sup> *Turneb.* used for *Tessera*; <sup>adv. l. 5. c. 6.</sup>

*Sen ludet numerosq, mann jactabit eburnos.*

P

Ovid



Ovid. 2. de Art. amand.

That they used more *Tali* in their playes, then they did *Tessera*,<sup>b</sup> *Turnebus* observeth from that verse,

<sup>a</sup> Turn. adv.  
lib. 6. cap. 10.

*Non sum talorum numero par tessera,*

*Martial. 14. epigr. 15.*

<sup>c</sup> Cœl. Rhod.  
lib. 20. c. 27.

<sup>c</sup> *Cœlius Rhodiginus* speaketh more distinctly, saying that in their play they used three *Tessera*, but four *Tali*. These *Tali* were sometimes called *Vulturii*, as appeareth by the same <sup>d</sup> *Rhodiginus*, and likewise *Reguli*. The reason of both is rendered by <sup>e</sup> *Turnebus*, he being of opinion that these *Tali* had not points in them as the *Tessera*, saith, *pro numeris effigies animalium habebant, ut vulturum, aut regulorum*. That they were termed *Vulturii*, is probable by that of *Plautus*,

<sup>d</sup> Cœl. Rhod.  
lib. 20. c. 28.

<sup>e</sup> Turn. adv.  
lib. 5. cap. 6.

*Tace parumper, jactis vulturios quatuor.*

*Plaut. curcul. Act. 2. Sc. 3.*

But that the cockle-bones should be called *Reguli*, I somewhat doubt, for no question but *Regulus* and *Basilicus* in this place signified one and the same thing, the one being the *Latine*, the other the *Greek* word; now *Basilicus* as shall presently appeare, signified the whole chance. So confused are the opinions of Authors herein, that to assigne the reason for every chaunces name, or to reduce every chaunce determinately, either to the *Tessera*, or the *Tali*, I think it impossible. Only some may be thus reduced, and in generall we may conceive probably which chaunces were fortunate, which unfortunate. The unfortunate chaunce in the *Tali*, was commonly called *Canis*, or *Canicula*, or *Chius*.

<sup>f</sup> Lipsan-  
tiq.  
lect. 1.3 c. 1.

The most fortunate chaunce, *Venus* or *Basilicus*.<sup>f</sup> *Lipsius* taketh them both for one, and that not without ground, if we compare *Horace*, and *Plautus*; both of them treating of that old custome of throwing these cocklebones at their feasts, for the choice of their *Modiperator*, or master of the feast, which should prescribe lawes for drinking to the whole company.

*Venus arbitrium*

*Dicet bibendi,*

saith *Horace*.



*Iactio Basilicum, propino magnum poculum,*

Saith *Plautus, curcul:* and why may not this Cast be justly termed *Basilicus*, seeing the *Modipperator* hereby designed, was by the *Gracians*, not only called *συμπόσιον* & *Θ*, but also *βασιλεύς* King, Prince, or cheife commander at the table. This cast was then thought to be throwne, when all fowre cocklebones appeared not one like the other, but all with different faces, *Venus consurgebat ex talis quatuor iactatis, ubi diversam omnes ostendissent faciem:* with whom accordeth <sup>h</sup> *Turnebus*; *Venus erat, cum nullus eodem vultu stabat talus.* *Hercules* was also a lucky throw, but whether the same as *Venus*, I have not yet learned.

*g* Cœl. Rhod. lib. 20. c. 27.  
*h* Turn. adv. lib. 5. cap. 6.

The games with the *Tessera* I make no question were diverse: the ignorance of which, they being long since out of use, hath caused much obscurity in this matter: one game there may seem to have been in use, where the just number of eight seemeth to have been the cheife Cast, it was called <sup>i</sup> *Stesichorius iactus*, or *Stesichorius numerus*. The reason is rendred by *Rhodiginus*, because *Stesichorius* his tombe, erected at great charges for greater magnificence, *Ex octonis constabat omnibus*, id est, consisted of many eights; to wit, eight angles, or corners; eight columnnes; eight steps, or grieces. In their common game, the most fortunate throw is thought to have been three *Sices*; we call it in *Passage*, a *Royall Passe*, whence it was commonly called *Senio*;

*i* Cœl. Rhod. lib. 20. c. 27.

--- *Quid dexter senio ferret*

*Seire erat in votis, damnosa canicula quantum*

*Raderet, angusta collo non fallier orce. Pers. Sat. 3.*

Which one place of *Persius* giveth light to this in three things. First, that the winning cast was termed *Senio*, and if you make *Basilicus* a term common both to dice & cocklebones, as *Venus* is, we may fitly render it, a *Royall passe*. Secondly, the loosing cast, *Canis* or *Canicula*, in English a *Dogge-Chaunce*. Thirdly the manner of their play, both in their Dice, & Cocklebones, was by casting them not imme-

diately



diately out of their hand, but out of a dish or narrow-mouthed vessell, that there might be faire play, without striking or cogging the dye; this vessell *Perfins* calleth *Orca*, and describeth it to have a narrow mouth, and streight neck. *Horace* applyeth it to the *Tali*, *Satyr. 7. l. 2.*

*Mitteret in Pyrgum talos---*

Calling it *Pyrgus*, using the greek word πύργος a tower or steeple, so called from πῦρ fire, because the form thereof, being *acuminata*, resembleth the rising of fire: the word intimateth *Horace* his *Pyrgus* to have been of the like forme with *Perfins* his *Orca*. But to return to the game, the chiefe cast as I said was thought to be when three *Sices* appeared: which opinion is strengthened by that common proverbe; *Aut tres sex, aut tres tessera, id est*, either three *Sices*, or three *Acies*. And the first of these being the best, the other the worst chaunce in the Dice, the proverb implyeth thus much, I will put all to the hazard, I will winne all or loose all. This cast was also called *Midas*: for as *Rhodiginus* speaketh, *In Tesserario ludo Midas iactus erat fortunatissimus*: with whom accordeth <sup>k</sup>*Dempster*, proving it out of *Suidas*;

<sup>k</sup> Dempst.  
antiqu. Rom. l.  
3. cap. 1.

*Midas ὁ ἐπιβουλευ ἀτυχεύων.*

*Midas in tesseris consultor optimus.*

This name signifieth the best chaunce, yet was not appropriated to the *Tessera*, but sometimes also signified the fortunatest chance of the *Tali*. Likewise from that of *Mart. l. 13. v.*

*Senio nec nostrum cum cane quassat ebur*

<sup>i</sup> *Erasm. adag.*  
*Chius ad Co-*  
*um.*

It is noted by <sup>i</sup>*Erasmus*, that as often as an *Ace* hapned to be thrown together with a *Sice*; so that *Senio*, and *Canicula* appeared together at one throw, it was a loosing cast: <sup>m</sup>*Suetonius* is cleare in the prooffe hereof, if for *Aut* we substitute *Et*, which unles we doe, it will be a matter of great difficulty, to make congruity of sence. His words are, *Talis enim iactatus, ut quisq. Canem aut Senionem miserat in singulos talos, singulos denarios in mediu conferebat, quos tollebat universos qui Venerem jecerat.* Turne *aut* into &, the sence is obvious.

Look



Look who threw an Ace and Sice together, for every dyc he staked and layed to the stake a Dinere; which he took up and swooped all cleane, whose luck it was to throw *Venus*. *Euripides*, as I take it, was not a chaunce, but a kind of game, much resembling that which is in use with us, called one and thirty: The number of that game was *fourty*, and the game called *Euripides*, becaute *Euripides* was one of the Forty chiefe governours in *Athens*, when the thirty Tyrants were deposed. The reason of my conjecture is taken from <sup>n</sup> *Rhodiginus* whose words are these: *Euripides numerum continebat quadragenarium, quoniam videtur unus fuisse Euripides prefectorum quadraginta, post triginta Tyrannos Athenis exactos.* From all we may note, that the *Iactus pronus*, or *Iactus plenus*, that is, the lucky cast, we may English it *Take all*, was commonly called *Senio*, *Venus*, *Cons*: the *iactus supinus*, or *iactus inanis*, was likewise commonly knowne by no other name then *Canis*, *Canicula*, or *Chius*, we may English it *Blanke*.

• Some have delivered their mind touching these plaies thus; that the *Tali*, or cockle-bones had but fowre faces or sides, and therefore yeilded fowre chaunces, and no more; the first is called *Canis*, or *Canicula*, or answering to our Ace: and it was the worst of all: the opposite unto it they terme *Venus*, or *Cons*, and is accounted the best: *Merula* against sense understandeth the number of seven by it: it may stand for our Sice. The third bore the name of *Chius*, proportioned to Treyn with us: and the last *Senio*, which is as much as *Quatre*. For in these *Tali* there is no chaunce of *Deaur*, or *Cinque*. This opinion at first I confesse seemed plausible to me, but how fully it discovereth the game, and how agreeable it is to antiquity let others judge. The chaunces of the dice, or cockle bones, as they were termed *Iactus & Missus*, casts; so also were they called *Manus*, figuratively, as every stroke in the fencing schoole, was termed *Manus*. The first acception of *Manus*, is proved out of *Suetonius*, 71.

<sup>n</sup> Coel. Rhod. lib. 20, c. 17.

<sup>o</sup> Barthol. Merula in Ovid, de art. Amand, lib. 2.

<sup>p</sup> Lips. Satur. lib. 2. cap. 20.  
<sup>q</sup> Suet. Aug. 71.



where *Augustus Caesar* speaketh thus, *Si quas manus remissi cuiq; exegissem, aut retinuissem quod cuiq; donavi, vicissem, &c. id est*, If I had exacted those chaunces which I remitted every one, and kept that which I bestowed, I had gotten, &c. The second acception of *Manus* is confirmed by *Quintilian*, who calleth the second, third, and fourth strokes in fencing, *secundas, tertias, & quartas manus*. Our English phrase is not much unlike; he hath had a good or bad, lucky or unlucky hand. Another game there was of like nature played with table-men: the word *Latrunculus* translated a table-man, did properly signify an hyred souldier, such a one as served for pay; whence *Latro*, whose diminutive *Latrunculus* is, hath his denomination *ὡς τὸ λατρεῖν, ἀ σερviendo*. In this sense the word is used by *Plantus*;

¶ *Plaut. mil. glori. Act. 1, sc. 1.*

*Nam rex Seleucus me opere oravit maximo,  
Ut sibi latrones cogerem, & conscriberem.*

Secondly, because souldiers are so prone, and apt to commit robberies, hence *Latro*, and *Latrunculus*, hath been used also to signify a thief or robber. And thirdly in a borrowed sense, these words are applied to signify table-men or chess-men; because this game hath the expresse forme and representation of a warre, or battle, fought between two armies: Infomuch that *Pyrrhus* King of *Epire*, being skilfull in plotting stratagems, first taught his souldiers that art of projecting, by playes and representations thereof in the table-men. "Some are of opinion, that it was first invented in the siege of *Troy*, by *Palamedes*, who that he might keep his souldiers in better order, allowed them this kind of recreation, whence these chess-men are sometimes called *palamediaci calculi*: they were made sometimes of wax, sometimes of glasse, sometimes of other matter. The game seemeth to have been the very same with that which we call chess. Other games there were of lesser note for recreation, of which sort were principally these that follow; *Petaurum, Discus, Pila, Trochus, Nuges*. Πέταρον, from whence this latin word

*Petaurum*

¶ *Donat. in Terent. Eun. Act. 4, Sc. 7. ad illud; Idem hoc jam Pyrrhus fecitavit*  
¶ *Suidas in voce πέλα.*



*Petaurum* commeth, signifying properly a perch or pole, on which poultry roult: and hence the rope or staffe on which light persons were wont to dance, and try masteries, was termed *Petaurum*. It signified also a certaine hoope, or wheel, through which active persons would runne swiftly, their body so warily carried, that in their running they would not touch the hoop or wheel: to this purpose *Alex. Neop.* speaketh; *a Fuit quoq; petauri ludus admirationis precipua, cum per circulos quispiam veloci cursu transvolat, corpore ita librato, ut circulum non offendat.* Such tumblers as were practized in this kind of activity were thence called *Petaurista*. *Discus* was a round stone in manner of a bowle, sometimes made of yron, or brasse, whosoever could cast it farthest got the victory: the players thereat were called *δοροββοι*, from *δορος* and *εββα* to dart, or cast out any thing. *Pila*, it signifieth a ball, and of it there were many sorts. 1. *Harpastum*; which we may English a foot-ball. *b* This ball being put down in the middle, two companies of young men strove who should drive it through the others goale. 2. *Pila*, which signified a distinct kind of ball, so called from the haire with which it was stuffed. 3. *Follis*, a light kind of ball, so called because it was stuffed with a bladder: with this old men, and young children played. 4. *Paganica*, this had its name à pagis, from villages and country-townes, where it was chiefly in use, it was stuffed with feathers: of all these *Mart. 14. 45.*

*Hac quæ difficilis turget paganica plumâ,*

*Folle minùs laxa est, & minùs arcta pilâ.*

Fifty *Trigonalis*, and thus I think both the *Pila*, & the *Follis* were called, in opposition to the *paganica*: the reason of the name is taken from the form of the tennis-courts, which because they were three-square, in manner of a triangle, *c* hence was the ball with which they played in such courts termed *Trigonalis*. The players themselves were termed *factores*; those that did cast the ball into the court, were called simply *datores*; and *d* hence *datatum ludere*, is to play at ball

*a Alex. ab Alex. l. 3. c. 21.*

*b Alex. ab Alex. l. 3. c. 21.*

*c Coel. Rhod. lib. 2. cap. 18. d Turneb. ad ver. l. 7. c. 4.*



ball, or else we may imagine the reason of this phrase to be, because such as in their play by negligence did let down the ball, did *furam dare*, hold out their legges, to have the ball flung at it. *Trochus*, it signifieth a top: as it was commonly called *Trochus* from *τροχος* to runne; because of the swiftnes thereof: and likewise *Turbo* in Latine, for the same reason: so sometimes it was called *buxum*, from the matter whereof it was made, as

--- *Buxum torquere flagello. Pers. sat. 3.*

*Nuces*, with nuts they had many playes, some of which are at this day in use. One holding an uncertaine number of nuts in his hand, his fellow that plaid with him, was to divine whether the number was even or odde. This *Horace* calleth

*Ludere par impar---*

The *Gracians* *ζυγὰν ἀζυγὰ*. Of this *Ovid. de nucē*,

*Est etiam, par sit numerus qui dicat, an impar:*

*Ut divinitas auferat augur opes.*

Sometimes they piled their nuts, three beneath and one on the top, in manner of a Castle: of this *Ovid* speaketh likewise,

*Quatuor in nucibus non amplius alea tota est,*

*Cum sibi suppositis additur una tribus.*

Yea, these nut-games were so many, and so peculiar to children, that striplings growing into mans estate, were still reputed children, untill they forsooke these nut-sports; whence *nucibus relictis* sounds as much, as childishnes being past: and this is thought to be the reason, why the *bride-man*, as soone as he was married used to cast nuts among the people; intimating thereby a farewell to such childish pastimes. Many other childish games they had, among which one resembled our *croſſe and pile*: <sup>e</sup> they termed it *Capita vel navim*; because the coyne which they fillipped or tossed into the ayre, bore stamped on the one side *Ianus* his two faces, on the other side a ship.

e Rosin. ant.  
Rom. lib. 5. c.  
27.

f Anton.  
Constant. in  
Ovid. Fast. l. 1.



## CAP. 14.

*De mensis & convivii Romanorum.*

**B**Efore we proceed unto the description of the *Roman* tables, we will explain those five termes, *Ientaculum*, *Prandium*, *Merenda*, *Cæna*, & *Comessatio*. Which five words doe signifie the five severall feedings each day, which children, old men, labourers, travellours, and such like, did usually observe; for others of healthier and stronger constitution did commonly eat but one meale, at the most but two in the day. *Ientaculum* signifieth their break-fast, and it had its name, like as our English word hath, à *jejunio*, from fasting: In former times it was called <sup>a</sup> *silatum* from *Sile*, the name of a certaine hearb, with the root whereof they were wont to season that wine which they had at breakfast: for as <sup>b</sup> *Plutarch* saith, their break-fast was nothing but a soppe dipped in wine. In the same place, he likewise saith, that in old time they had no dinner, but that which we call *Prandium*, was the same with them as *Ientaculum*, and thus much the Greek word *ἀεισον* signifying a dinner, doth intimate, it being so called, *quasi* *ἀεισον*, from *ἀειρον*, which signifieth the morning. The name *Prandium*, which we render a dinner, was so said *quasi* *παρ' ἡμερας*, signifying noone tide, or mid-day. The third time of taking meat, was called *Merenda*: we may english it our afternoones beaver: it was called also *Antecanium*, because it was taken a litle before supper. <sup>c</sup> *Merenda est cibus qui declinante die sumitur, quasi post meridiem edendus, & proximè cæna; unde & antecanium à quibusdam dicitur.* The fourth time was their supper; called *cæna*, *quasi* *κοινὴ*, which signifieth as much as *Common*, <sup>d</sup> *quia antiquitus seorsim solebant prandere Romani, cenare cum amicis*: Their fift and last time of feeding, was called in Latin *Comessatio* by some, by most *Comessatio*, à *comedendo*. <sup>e</sup> *Ioannes*

<sup>a</sup> *Rosin. antiq.*  
lib. 5. c. 27.

<sup>b</sup> *Plut. in sym.*  
lib. 8. q. 6.

<sup>c</sup> *Iust. Lips.*  
cent. 1. ep. 65.

<sup>d</sup> *Plut. sym.*  
lib. 8 q. 6.

<sup>e</sup> *In orat. pro*  
*M. Cælio.*



f Lazius de  
republic Rom.  
l. 3. cap. 3.

*annes Tristinus* saith, that it is a beaver taken after supper, or a night-drinking. But the chiefe feast, whereat they gave entertainment, being their supper, we will consider these three things therein. First *accumbendi vel discumbendi rationem*, that is, the manner of their lying at supper (for they did neither stand, nor sit at table, as we doe:) secondly, the forme and fashion of their table; and lastly the parts of their supper. The place where they supped was commonly called *Cenaculum à cœna*, as our dining chamber is so called from our dinner. It was also called *Triclinium* or *Biclinium*, from *κλινη* a bed: for sometimes there were three beds, sometimes but two about the table, upon which the guests did sit, or rather lye along. In this dining parlour was placed a table, sometimes made quite round, and for the common sort of people it was made of ordinary wood, standing upon three feet; but for men of better ranke, it was made of better timber, inlaid sometimes with wood of divers colours, sometimes with silver, and it stood upon one whole intire foot, made of Ivory, in the forme of a great Lyon, or Leopard &c. Vnto the meaner sort of these tables *Horace* alladeth;

— *Modò sit mihi mensa tripes. Hor. Ser. 13.*

Vnto the other, *Iuvenal. Sat. 11. vers. 122.*

— *putere videntur*

*Vnguenta atq; Rosa, latos nisi sustinet orbes*

*Grande ebur, & magno sublimis pardus hiatus.*

Sometimes this table was made in the forme of an halfe moone, the one part thereof being cut in with an arch or semicircle, and then it was called *Sigma*, because it did much resemble the letter *Sigma*, & which as it appeareth by certain marble monuments, was in old time made like a *Roman C.* Hence is that of *Martial lib. 14. 87.*

*Accipe lunatâ scriptum testudine Sigma.*

If any man should demand the reason, why they cut their table in that forme, I must confesse I have not read any reason in any author bearing shew of probability. My conjecture

f Rom antiq.  
l. 3. c. 28.



jesture is this; it is agreed upon by most authors, that in the round tables the one quarter was reserved void from guests that the waiters might have a convenient roome to attend: thereupon it seemeth not improbable unto mee, that this crooked arch was made for the waiters. I acknowledge that this *Sigma* hath been translated diversly by divers writers, as it appeareth by *Lipsum* in the fore-quoted place. By some it hath been taken for the parlour, or supping chamber: so *Lipsum* in his *Antiquities*; by others for the supper or feast it selfe: so *Calius*. By *Lipsum* since it hath been thought a certain place, erected in the manner of a hemicycle, or halfe moone, against which they did place one continued bed, able to take six or seven guests. But *Brodeus* and *Ditmarus*, in my opinion, have more truly taken it for the table it selfe. About the table that was perfectly round, were placed three beds, covered with tapestrie, or some other kind of covering, according to the wealth and ability of the persons and thus

—*Strato discumbitur ostro*;

the beds being ready furnished, the guests lay downe in manner as followeth. Each bed contained three persons, sometimes foure, seldome or never more, except at their great and more solemne feasts. If one only lay upon the bed, then he rested the upper part of his body upon his left elbow the lower part lying at length upon the bed: but if many lay upon one bed, then the uppermost did lie at the beds head, laying his feet behind the second his back; the second rested his head in the others bosome, having a cushion put between, laying his feet behind the third's back; in like manner the third & fourth did lie. The number of the guests was not great, seldome times exceeding nine: whence *A. Gellius*<sup>h</sup> saith, that the number of the guests should begin with the *Graces*, and end with the *Muses*, that is, they must not be fewer then three, nor more then nine. This also hath been the reason of that adage, *Septem convivium, novem con-*

hA. Gel. no. 8.  
Att. l. 13 c. 11.  
Tribus aut no-  
vè miscentur  
cyathis pocula  
commodis, Qui  
musas amat  
impares, Ter-  
nos tercyathos  
attonitus petet.  
Vates, tres  
prohibet supra  
Rixarum me-  
tuens tangere  
Gratia Nudis  
iuncta sorori-  
bus. Hor. carm.  
l. 3. Od. 19.  
Alex. Gen.  
dier. l. 5. c. 22.



& Stuckius de  
convil. 4. c. 2.

*vitium faciunt.* *Heliogabalus* seemeth to have been delighted with the number of eight, <sup>k</sup> whence he invited to supper *otto calvos, otto luscus, otto podagrosos, otto surdos, otto rancos, otto insigniter nigros, otto insigniter longos, otto praepingues, & otto nasutos; delectatus iho* Græco proverbio, ἀπαρπητιώ. Those that were not invited, but came of their own accord unto a feast without bidding, by *Plautus* they are called *Musca*, flies; by others they are called *Umbra*, shadows. Hence is that of *Horace*,

— *Locus est & pluribus umbris.*

The party which invited the guests, sometimes expressed his earnestness by pulling and hailing one by the cloake whence *Stuckius* observeth, that when they would shew how earnestly they were invited, they would say, *Penulam mihi scidit*; he tore my cloak off my shoulder. Again on the other side, when they would shew, how easily the guest was intreated, they would say, *Illius ego vix tetigi penulam, tamen remansit*. Before the guests fate downe, their shoes were usually pluckt off, that they might not foule the beddes on which they did lye<sup>l</sup>;

*Terent. in  
Heautont.*

*Accurrunt servi, soleas detrahunt,*

*Video alios festinare lectos sternere, cœnam parare.*

*m Cœl. Rhod.  
l. 27. c. 26.*

<sup>m</sup> They likewise did gird their heads with fillets and haire-laces, as often as they intended to drink more then ordinarily, thereby to prevent the vapours, which otherwise would annoy the head: for which reason, they did likewise <sup>n</sup> use garlands of yvie, and mirtle-tree, & roses; the cooleness of which comforted the braine. These garlands were also *Symbolum plena libertatis*, a token of their full liberty. The carver in these feasts, was called from his artificial setting and ordering the dishes upon the table, *Structor*; & from his artificial carving and cutting up of the dishe, *Carptor*. Tryphernus, as appeareth by *Juven. Satyr. 11*. was famous for his skill in carving: he did set up a schoole, teaching such as came unto him by rules & precepts; & also shewing the manner

*n Plin. 16.  
c. 1.*



manner of carving: which that he might the better doe, hee furnished a table with severall dishes of meat, formed and fashioned in wood with a dull knife, shewing his schollers after what manner, and with what gesture of their body, they should cut up this or that dish. This supper, because of the wooden dishes of meat, was called *Cana ulmea*. They divided their supper usually into three parts, which they termed their first, second, & third course. In the first course commonly was served mulberries, lettices, sausages, and alwaies eggs: as likewise in the last course (whether the second, or third) were served nuts, figs, grapes, but alwaies apples. P whence we say proverbially, *Ab ovo ad mala*, from the beginning of the feast to the end; or simply, from the beginning of any thing to the end thereof. The middle course was the maine supper, and the chiefe dish thereof was called *Caput cæne*: In *Lipsius* his phrase, it is called *q Fundus & fundamentum cæne*. Their first messe they called the *proæmium*: the last, the *epilogue*; which because it consisted so much of sweet and delicious meats, hence did they apply that unto the second course, *ad præparandum opus præparandum, Secunda cogitationes sunt sapientiores*. If the table were well furnished with plentie and variety of dishes, it was called *Cæna recta*, or *cæna dubia*: *Recta* in this place signifieth as much as *vera*: thus *ἰσθῆς* among the *Græcians*, sometimes signifieth *verus & sincerus*. The phrase intimateth, that it was a true supper, opposed to that dole of meat distributed by Princes to the people, which from the panier or basket in which it was brought, was called *sportula*: sometimes they distributed money instead of meat: this also was named *sportula*: so that *sportula* denoted any kind of dole either of meat or mony, which as often as it was given in lieu of a supper, it was opposed to *cæna recta*. Yea sometimes by *sportula* we may understand a light and short supper,

*Promissa est nobis sportula, recta data. Martialis.*

The reason why a great feast should be termed *cæna dubia*,

o Stuck de  
conv. l. 3. c. 3.

p Pancitoll.  
lib. rer. de per-  
dit. cap. de cibi  
capiendi mo-  
do.  
q Stuek. lib. 3.  
de conviv.

r Turneb adv.  
lib. 5. cap. 10.

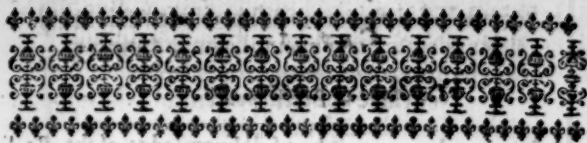


is, because in such variety of dishes the guest is many  
times doubtfull of which to beginne. Contrary  
to this is *cena ambulatoria*, a supper  
where one dish walketh  
through the table.

LIB.







## LIB. 3. SECT. I.

*Of the Roman Assemblies.**De Comitiiis.*

THE R-UNTO have wee  
 insisted upon the description  
 of the most remarkable parts  
 of the *Roman* citie, together  
 with the severall divisions of  
 the *Roman* people, as also the  
*Roman* religion; where wee  
 have seen the generall divisi-  
 ons of their Gods, and their sa-  
 crifices, with their ceremonies

thereunto belonging, & likewise of the *Roman* games both  
 greater and lesse. Now are we to proceed to that part of go-  
 vernment, which is politicall or civill: where we will first  
 speak of their assemblies, called *Comitia*, then of their civill  
 Magistrates, afterwards of their punishments, and lastly of  
 so many of their civill lawes as I have observed needfull  
 for the understanding of *Tully*, and that principally in his  
 Orations. For the more easie conceiving of all which I have  
 prefixed one Chapter of the *Roman* year, treating there, of  
 the *Calends*, *Ides*, and *Nones*, the knowledge of which is  
 needfull for that which followeth.



## CAP. I.

De Anno &amp; partibus ejus.

**I**nasmuch as there cannot be a full knowledge of the *Roman* assemblies, without some generall understanding of the *Roman* yeare, and the generall distinctions of the *Roman* daies, it cannot be but worth our labour in this short chapter briefly to consider what may be spoken therein. This word *Annus*, is so called *quasi Annulus*, because (as the Greek word *ἐνιαυτός* signifieth) *ἐν αὐτῷ ὥσιν, id est, in se convertitur annus*: which was the reason, why the Egyptians in their mysticall cyphers (called *litera hieroglyphica*) did use the picture of a serpent, having his taile in his mouth, to signifie an yeare. The time or space of this yeare hath been diverse, according to the diversitie of nations. \* Some allowed no more daies to an yeare, then we doe to a moneth: whence that monethly space which the *Latines* called *Mensis* from *μῆνς*, signifying the Moone, they called *Annus Lunarem*. Some allowed foure moneths, some six moneths, some ten. And thus *Romulus* measured his yeare, counting the moneths either from the number of our fingers, or from the time that a woman goeth with child, or from the time that a widdow commonly mourned for her husbands death, or lastly from the multiplication of unities, which in a simple number doth not exceed ten.

<sup>a</sup> Vid. Plin. l. 7. cap. 48.

<sup>b</sup> Paulus Mar. in Ovid. Fast. lib. 1.

*Quod satis est utero matris dum prodeat infans,  
Hoc anno statuit temporis esse satis.  
Per totidem menses a funere conjugis uxor  
Sustinet in vidua tristitia signa domo. Ovid. Fast. lib. I.  
Annus erat, decimum cum Luna receperat orbem,  
Hic numerus magno tunc in honore fuit:  
Sen quia tot digiti per quos numerare solemus,  
Sen quia bis quino fœmina mense parit,*

Sen



*Sed quod ad usq̃ decem numero crescente venimus,*

*Principium spatii sumitur inde novis. Ovid. Fast. lib. 3.*

Thus *Romulus* his year contained of months ten; of dayes 304. But after this *Numa* added two months.

*At Numa nec Janum, nec avitas praterit umbras,*

*Mensibus antiquis addidit ille duos. Ovid. lib. 1. Fast.*

*Numa*, or as some say, *Tarquinius Priscus* perceiving that the months did not alwaies fall out alike every yeare; but sometimes the same month would happen in the summer, sometimes in the winter, thereupon after long study & many instructions from the *Grecians*, finding the reason of this confusednesse, he added unto *Romulus* his year fifty dayes, so that the whole year afterward was divided into twelve months; because the moone had finished her course twelve times in that space; beginning their year then at January: because then in his judgement was the fittest time to begin the yeare, when the Sun being farthest from us, did beginne to turne his course, and to come unto us againe; which is about January, the Sunne being about the Tropick of Capricorne. Afterward upon a superstitious conceit of the odde number, *Numa* added one day more unto January, so that whereas at the first *Numa* his year did agree with the *Grecian* year, both of them containing three hundred fifty fowre dayes, now the *Roman* year contained three hundred fifty five daies, which computation falling out too short for the true yeare by the space of ten daies, and six houres yearly, it occasioned every eight yeare in the interposition of 3. whole months, which they called their leap yeare: This confusednes afterward *Julius Caesar* by long study remedied, adding the odd ten daies unto *Numa Pompilius* his year. And lest the odde six houres might at last breed disorder in their computation, he appointed that every fourth year one whole day should be inserted, next after the three & twentieth of February; w<sup>ch</sup> inserting they called *Intercalatio* frō an old verb *Intercalo*, & that day they called *Intercalarem*.

R

Now

*Vid. Georg. Merulam in orat. pro Q. Ligatio.*

*d G. Merula in orat. pro Q. Ligatio.*



e G. Merula  
in orat. pro  
Q. Ligar.

f Rosin ant.  
Rom. lib. 4.

† Hubert. l. 3.  
epist. fam. 18.

g Suet. Octav.  
Aug. cap. 87.

Now the day following, being the fowre and twentieth of February, was alwaies the sixt of the Kalends of March, and therefore because of the interposition of that day, they called the leap-year *Annum bissextilem*, that is, the year wherein there falled out two dayes which they called *Sexti Cal Martij*. And the day thus interposed was called *dies bissextus*. This computation, which *Julius Caesar* found out, we have embraced, and doe at this day follow, calling our yeare *Annum Iulianum*,<sup>f</sup> and *Annum magnum*, having relation to the monthly yeare called *Annus Lunaris*; and sometimes this great yeare is called *Annus vertens*, a *vertendo*, because it is alwaies turning, and running on. † Moreover we must remember that the *Romans* did begin their yeare at March, whence that moneth, which since hath bin called *Iulius*, in the honour of *Julius Caesar*, was by them called *Quintilis*, because it was the fift month: and that month, which since hath been called *Augustus*, in the remembrance of *Augustus Caesar*, was by them called *Sextilis*, because it was their sixt month. Thus then the great yeare being divided into twelve months, every month was divided into three parts, *id est*, *Calendæ*, *Nonas*, and *Idus*. The *Kalends* were so proper unto the *Romans*, that *Augustus Caesar*, when he purposed never to doe what he was requested, was wont by way of proverb to say, that he would doe it *Ad Calendæ Gracæ*, that is to say in our English proverb, At latter Lammes, never. For the better understanding of which, I shall insert three common verses.

*Principium mensis nostri dixere Calendæ:*

*Sex Majus Nonas, October, Iulius, & Mars,*

*Quatuor at reliqui: tenet Idus quilibet octo.*

That is, the first day of every month is called the Kalends of that month. The 2. 3. 4. 5. 6. and 7. of these fowre months, May, October, Iuly, and March, were called the Nones of that month: but in all the other months the Nones contained but the 2. 3. 4 and 5. day: so that the 5. day (for example sake



ake) of January was called *Nona Ianuariæ*, or *Iannarij*; the fourth *Pridie Nonarum*, or *Nonas Jan*: (For they used alwayes to say *Pridie Cal*: *Pridie Nonar*: and *Pridie Iduum*: instead of *secundo Cal*: *Non*: *Id*. The third day of January they called *tertium Nonarum*, vel *Nonas Ianuar*: the second day of January they called *quartum Nonarum*, vel *Nonas Ianuar*: After the Nones followed the Ides, which contained eyght daies in every month, so that the 15<sup>th</sup> day of the fowr aforesaid months, was, called *Idus Maij*, *Idus Octob*: *Idus Julij*, and *Idus Martij*. In all the other months, the 13<sup>th</sup> day was the Ides: as to proceed in January, the thirteenth day was called *Idus Ianuar*: the twelfth *Pridie Iduum*, vel *Idus Ianuar*: the eleventh *tertio Iduum*, or *Idus Ian*: the tenth *quarto Iduum*, vel *Idus Ian*: the ninth 5<sup>o</sup> *Id*: *Jan*: the eight 6<sup>o</sup> *Id*: *Jan*: the seaventh 7<sup>o</sup> *Id*: *Jan*: the sixt 8<sup>o</sup> *Id*: *Jan*: After the Ides then followed the Kalends of the next month. As the fourteenth of January was *decimo nono Calendarum*, or *Calendas Februar*: the fifteenth *decimo octavo Calend. Febr*: the sixteenth *decimo septimo Cal: Febr: &c*. Where we must note that as often as we use *Pridie*, *tertio*, *quarto*, or any of those numerals with an accusative case, as *Pridie Calendas*, &c. the *Grammarians* say that this præposition *Ante* is eclipsed. Again every month had in its compasse three great markets, which because they were observed every ninth day were called *Nundina*, and the latter of them being the greatest is called by *Athenians* *ἐπιτιμολογία*, which we may render *Trinundinum*, or *Triuum nundinum*. It followeth now that I should treat of the dayes, which are the lesser parts of the yeare: where before we proceed, we will consider the parts which the *Romans* divided their day into.



Dies Civilis continet

Lucem, cuius partes sunt

Noctem, cuius partes sunt

*Diluculum.* The breake of day.  
*Mane.* The full morning.  
*Admeridies.* The fore-noon.  
*Meridies quasi Merides.* Mid-day, or quasi  
*Merus dies.* Perfect day, noone.  
*De Meridie.* After noone.  
*Solis occasus.* Sunne setting.  
*Crepusculum.* The du-ke of the evening.  
*Prima fax.* Candle-tinding.  
*Vesper.* The night.  
*Concubium.* Bed-time.  
*Nox intempesta.* The first sleep.  
*Ad mediam noctem.* Towards mid-night.  
*Media nox.* Mid-night.  
*De media nocte.* A little after mid-night.  
*Gallicinium.* Cock-crowing.  
*Canticinium.* All the time from cock-crowing to the break of day.

2 Alex. Gen.  
 lib. 2. cap. 124

The day and night againe were each of them divided into *primam, secundam, tertiam, & quartam vigiliam*, every watch containing three houres. The first of the night began at six of the clock in the evening, and the fourth ended at six of the clock in the morning. These watches were distinguished by severall notes and sounds of Cornets, or Trumpets, that by the distinction and diversity thereof, it might easily be knowne what watch was sounded. Moreover we must understand that the *Romans*, upon a superstitious conceit and observation of misfortunes, and evill events falling out on some dayes; and more happy successe upon others, have called the former sort of dayes *Atros dies*, or *dies postriduanos*, & *Aegyptios*: ἀπορίας *Græci nuncupant*, perinde ac si nefandos dicas. The reason why they were called *Postriduani* was because they thought *Dies Postridie Calendas, Nonas, & Idus*, id est, The next day after the Calends, Nones, or Ides, of every month to be unfortunate, & the latter sort they called

*Albos*



*Albos dies*,<sup>b</sup> borrowing the names from the *Scythians*, who used to chalke out the fortunate daies in their Kalenders with white Characters, whence *Horace* saith:

*b* Vid. Eosm.  
Adag. unione  
signare.

*Cressa non careat pulchra dies nota.*

Other some, as their unfortunate and unlucky dayes, were noted with a cole or black Character, according to that,

--- *Nigro carbone notatus.*

Again their Kalender distinguished some dayes for Holy-dayes, which they called *Dies festos*, festivall daies, or *dies Feriatis*, & *Ferius*, Holy-daies,<sup>i</sup> because they did upon such daies *Ferire victimas*, *id est*, offer up sacrifices. Others were distinguished for working daies, which they called *Profestos*, *quasi procul a festis*. The third distinction was of halfe holy-dayes, which *ab intercidendo*, they called *Dies intercisos*, as it were daies cut asunder: the one part of them being allotted for worldly buisinesse, the other for holy and religious exercises.<sup>k</sup> The *ferie* were either *privata*, and so they belonged sometime to whole families, as *Familia Claudia*, *Emilia*, *Julia*, &c. sometimes to private persons, as every one his birth-day, particular expiations, &c. or else they were *Publice* such as the whole common-wealth did observe: and they were of two sorts, the one called *Anniversaria*, which were alwaies to be kept on a certaine day,<sup>l</sup> and thereupon they were called *ferie stativæ*; the other *conceptivæ*, which were arbitrary, and solemnized upon such daies as the Magistrates and Priests thought most expedient, whereof the *Latina Ferie* were chiefe: which *Latina ferie* were kept on mount *Albane* to *Jupiter Latian*, for the preservation of all the *Latine* people in league and confederacy with the *Romans*, and were solemnized in memory of the truce between those two nations. Those *Ferie* which were called *Imperativæ*, and <sup>m</sup> *Indictivæ*, (because the *Consul*, *Prætor*, or chief Pontify, according to their pleasure *imperabant*, & *indicebant has*, *id est*, commanded them,) may in my opinion be contained under the number of *Ferie conceptivæ*, in respect of the un-

*i* Ascensius, in  
epist. 3. illust.  
vir. lib. 2.

*k* Rosin, ant.  
lib. 4. cap. 3.

*l* Alex. Gen.  
dier. 1. 5. c. 7.

*m* Alex. Gen.  
dier. 1. 6. c. 7.  
*n* Serv. A. nev.  
id. lib. 11.



o Carminum  
h. 2. Ode 13.

p Joach. Ca-  
merar. pro  
Flacco.  
q Bersman. in  
suis annot. in  
Rom. Caen.  
ad finem, Oy.  
Fast,

certainly of them. Another distinction of dayes is found in the *Roman Kalender*, to have been in *Fastos*, whole court or leet-dayes; *Ex parte Fastos*, halfe court-dayes; *Nefastos*, Non-leet-dayes; though this word *Nefastos* be often expounded unlucky, as in that of o *Horace* touching the tree, *Ille & nefasto te posuit die*, that is, he planted thee in an unhappy time. These dayes were called *a fando*, from speaking; because upon those dayes w<sup>ch</sup> were *Fasti*, the *Prator* or *L. chiefe Justice* might lawfully keep court & administer justice, which was not done without the speaking of these three words, *Do, Dico, and Addico*; p *Dabat actionem; Dicebat jus; Addicebat nam res quam homines*. Where by the way we must note, that sometimes these court-dayes were also called *dies comitiales*, because that q upon every such day which was noted in the *Kalender* for a comitiall day, if the publique assemblies were not held, it was lawfull to keep court: whence not only *comitialis dies* doth signify a law-day, but *comisialis homo* also doth signify a wrangler in the law, or a litigious person.

## CAP. 2.

*De Comitibus idq. Calatis præcipuè, de Rogationibus,  
& antiquâ scribendiratione.*

EVERY Assembly of all the *Roman* people being called together by a lawfull Magistrate to determine any matter by way of giving voyces, is *a coeundo* termed *Comitia* simply, without the adjection of any other word; or *Comitia calata*, that is assemblies called together, from *calare* or the obsolete Latine verbe *Calo*, which signifieth to call: though afterward those assemblies onely, which were held either for the inaugurating of some Pontify, some *Augur*, some *Flamen*, or him that was called *Rex sacrorum*, or for the making of their wills and testaments, were called *Calata comitia*.  
Whence



Whence the wil that was made in these assemblies was called *Testamentum calatis comitijs*. This kind of assembly is sometimes called *comitia pontificia*, and *comitia sacerdotum*, <sup>a Ioan. Tristi-</sup> in that sence as others are called *Consularia*, or *Edilitia co-* nus in orat.  
*mitia*; namely because the Pontifices in these, as the *Consuls* pro Caelio.  
 & *Ediles plebis* in the others, were chosen. There follow-  
 eth three other kinds of assemblies: for either the people did  
 assemble themselves by parishes, called *Curia*; or by hun-  
 dreds, called *Centuria*; or by wards, called *Tribus*. The first  
 sort of assemblies they called *comitia Curiata*, the second *co-*  
*mitia Centuriata*, the last *comitia Tributa*. <sup>b Where by the</sup> <sup>b Sigon. de ju-</sup>  
 way we must note, that that thing which was determined <sup>re Rom. lib. 1.</sup>  
 by the *major* part in any parish, hundred, or ward, was said to <sup>cap. 17.</sup>  
 be determined by that whole parish, hundred, or ward: and  
 that which was determined by the *major* part of parishes,  
 hundreds, or wards, was said to be approved *comitijs Curi-*  
*is, Centuriatis, vel Tributis*. Secondly we must note, that nei-  
 ther children untill they were seventeen yeares old, nor old  
 men after the sixtieth year of their age, were allowed to suf-  
 frage in these assemblies, whence rose that adage, *Sexagen-*  
*arii de ponte deijciendi*. <sup>c</sup> & old men were hence called *Depon-* <sup>c Pars putat</sup>  
*tani*, for the explication of which see before. Here before we <sup>ut ferrent ju-</sup>  
 speak of those three severall kindes of assemblies, we will <sup>venes suffra-</sup>  
 consider the manner of their proceedings in preponnding <sup>gia soli: Pon-</sup>  
 cases unto the assemblies. <sup>d</sup> The custome was at first, that the <sup>tibus infirmos</sup>  
*Romans* should bestow their suffrages *Viva voce*, but after- <sup>precipitasse</sup>  
 ward that everyone might with freer liberty give his voice, <sup>d Philip. Be-</sup>  
 they commanded certain woodē tables, wherein the names <sup>roaldus in o-</sup>  
 of those that stood for offices were written, to be carried a- <sup>rat. Phil. 11.</sup>  
 bout, every suffrager receiving so many tables as there were  
 suitors, then did the people give back that table with whom  
 they would suffrage. But if a law were to be enacted, then e-  
 very suffrager received two tables, in the one of which were  
 written these two great letters V. R. in the other was writ-  
 ten a great *Roman A*. Those who delivered these tables unto  
 the



the people did stand at the lower end of those bridges (which were erected up for the suffragers to ascend unto the *ovilia*) whence they were called *a diribendo, id est*, from distributing *Diribitores*. At the other end of the bridges were placed certain chests or little coffers, into which the suffragers which did approve the law did cast in the first table; those that disliked it, did cast in the second, for by those two letters V. R. which were written in the first, is meant *Uti rogas. i.* Be it as thou hast asked, this word *fiat* being understood. By A. in the second table was meant *Antiquo, id est*, I forbid it, the word, signifying as much as *antiquam volo*, I like the old law, I love no innovations. The tables being thus cast into the chests certain men appointed for that purpose in manner of Scrutators (they called them *Custodes*, and sometimes *Nongenti*) did take the tables out of the chests, and so number the voyces by making so many points or pricks in a void table, as they found tables alike: which kind of accounting occasioned these and the like phrases; *Suffragiorum puncta non tulit septem*, and *Omne tulit punctum*; where *punctum* is used for *suffragium*; the voices being thus numbered, it was pronounced by the common cryer what was decreed. Because the use of those tables is now growne quite out of use, I shall make bold to insert that, which with much labour I have collected out of severall authors touching these tables. It is certaine that a long time the use of paper was not known, whence men were wont to write sometimes upon the inward rindes of trees, called in Latine *Libri* (so that to this day wee call our bookes *Libri*, because in old time they were made of those rindes of trees,) sometimes they did write in great leaves made of that rush *Papyrus*, growing in *Aegypt*, from which wee have derived our English word Paper and the Latin word *Papirus*, now signifying our writing paper. Shortly after the invention of this *Aegyptian* paper, *Ptolomy* the King of *Aegypt* restrained the common making thereof, because of the great emulation between him and *Eumenes* King of *Pergamus* concei-

e Plin. lib. 33.  
cap. 2.

a Plin. lib. 13.  
cap. 11.

concer-



concerning their libraries; not long after therefore *Eumenes* having found out the making of parchment, he made use thereof in writing, and called it from the place *Pergamenta*. At this time did the *Romans* use to write in tables of wood, covered with wax, called in latin *cerata tabula*. They wrote their wills & testaments in tables, <sup>b</sup> *Hinc secundum & contra tabulas bonorum possessio*; The possession of goods either according or against the testator his will. Because of the wax wherewith these tables were covered, *cera* is often used in the same sense, as *Heredes prima cera, id est, prima tabula, & in primo gradu instituti*, by which words I think are understood such heires as <sup>c</sup> *Alexander* calleth *Heredes ex toto asse*, that is, heires to the main inheritance, opposing them to those which did receive onely legacies, whom he calleth there *Heredes in imâ corâ, secundos heredes, & legatarios*. <sup>d</sup> *Sylvius* not upon improbable grounds doth think, that *Tully* doth understand by *Heredes secundi*, such heires as were nominated to succeed the chiefe heire or heires if they died. They wrote their accounts in tables, hence *tabula accepti & expensi*, signifying reckning books. These count books were of <sup>e</sup> two sorts, some monethly without order or method called *Adversaria*; *Quod adversâ parte etiam scriptis impleantur*. Others perpetuall, being the transcript of the former, called *Tabula accepti & expensi*. They wrote their statutes also in Tables, whence *Tabula publicæ*, are englished statute books, or rather books of record. Those writings or instruments which the Senate or Emperour caused to be hanged up in the market place, to release & discharge any bankrupt frô paying his debts, they termed *tabulas novas*, <sup>f</sup> we may english them letters of protection. They wrote their inventories of goods set at sale in tables, calling them *tabulas auctionarias*: yea they indited their epistles & common letters in tables; insomuch that *tabella* are expounded missive letters, and *tabellarium* which properly signifieth a carrier of tables, is now used to signifie a letter carrier; yet

<sup>b</sup> P. Pellitar.  
in orat. pro  
A. Cœcinnâ.

<sup>c</sup> Alex. Gen.  
dier. l. 1. c. 1.

<sup>d</sup> Fr. Sylvius  
pro Cluentio.

<sup>e</sup> Cœl. Rhod.  
lib. 12. c. 21.

<sup>f</sup> Fr. Sylvius  
in orat. Cautilin.



g Suidas in  
voce  
μολύβδου.  
h Suet. Nero  
20.  
i Plin l. 13.  
cap. 11.

k Fr. Sylv. in  
orat. Catil. 3.

l Iust. Lips. ep  
in l. 4.

m Cic. 4 in  
Verrem.  
n P. Pellitar.  
in orat. pro A.  
Cæciana.

o Vid. Erasim.  
Adag.

p Herman.  
Hago de pri-  
ma scrib. orig.  
cap. 9.  
q Cic. orat.  
conr. Catil.

they & sometimes wrought also in plates of lead, ος ἑλασμις  
μολύβδου χαρὼντες. And thus we may understand what <sup>b</sup> *Sue-*  
*tonius* meaneth by *charta plumbea*: concerning all these  
*Pliny* writeth excellently. Before the use and making of  
paper was invented, men wrot at first in palme tree leaves,  
afterwards in the rindes of certain trees, afterward publike  
monuments were recorded in volumes or roles of lead, at  
last private matters on fine linnen or wax. <sup>k</sup> The manner  
how they sealed their letters was thus: they did binde ano-  
ther table unto that wherein the inditement was, with some  
strong thread, sealing the knot of that thread with wax,  
whence *Cicero* saith, *Linum inscidimus*, that is, we opened  
the letters, hence also is that of *Plautus*, *Cedo tu ceram ac*  
*linum: age, obliga, ob signa cito*. <sup>l</sup> The impression was commo-  
ly their own image, or the image of some of their ancestors.  
The matter on which the impression was made, was not al-  
waies wax, but sometimes a kinde of tempered chaulke,  
which occasioned that phrase of *Tullies*, <sup>m</sup> *Signum ille anim-*  
*advertit in cretula*. <sup>n</sup> Lastly, they wrote their books in tables  
whence from them we doe at this day call our books *codi-*  
*ces à candicibus, caudex* signifying properly the trunk or  
stock of a tree, whereof these tables or books were made.  
We must note withal that they wrote not with ink or quill,  
but with an instrument of Steele, or yron, having <sup>o</sup> a sharp  
point at the one end, and being broad; yet keen & well ed-  
ged at the other, with the sharp point they did write what  
they pleased, with the broad end they did scrape out what  
they had written: Whence *Stylum invertere* is to say & un-  
say a thing, to turne his punch the wrong end downward, as  
it were to scrape out that which one had formerly written.  
The Romans did afterward use insteed thereof, an instru-  
ment made of bone, prohibiting the use of yron ones, as <sup>p</sup> *I-*  
*sidor* noteth by that law, *Ceram ferro ne cadito*. And as we  
use this word *Manus* to signify the writing it selfe, accor-  
ding to that of <sup>q</sup> *Tully*, *cognovit manum, & signum suum*:



so in the like sense we use this word *Stylus*, to signify the peculiar tenure or strain of phrase, which any man observeth in the composing of an oration, epistle, or such like: in which sense *Tully* useth it, as the antitheton to *gladius*, in that speech of his, *Cedat forum castris, otium militia, stylus gladio*, though in another place he useth it to signify, if not a sword, yet a pocket dagger, as *Est meus ille stylus fuisse*; in which place *Stylus* doth signify as much as *pugio*. And here seeing we are fallen into the manner and custome of ancient writing, it will not be amisse to note that usually at the end of their books they printed a little mark, which they termed *Coronis*. Those that interpret *Aristophanes*, describe that mark thus, saying that it is *Linea brevis ab inferiore parte flexa*. All agree in this, that it was some common and known dash, usually subjoynd to the end of books: others are of opinion that the ancient Romans did in like manner adorne the frontispice, or beginning of their books, with the picture of an half Moon, which observation giveth light not only to that adage, *ἀπὸ τοῦ ἀρχῆς ἕως τοῦ ἑσπέρου*, from the beginning to the ending. But also that of *Martial*. lib. 10.

(Cic. orat.  
pro Muræ.  
Mic. Toxic.  
in orat. Phil.)

(Cæ. Rhod.  
l. 15. cap. 20.  
u Turn. adv.  
l. 22. cap. 10.)

*Sinimus videor, serag, coronide longus*

*Esse liber, legito pauca, libellus ero.*

And of *Ovid*,

*Candida nec nigrâ cornua fronte geras.*

For in *Turnebus* his judgement those half moones prefixed, were called *Cornua*. Howsoever this may be true touching the dash, or character at the end of a booke, and that it was termed *Coronis*; yet I doubt whether any such halfe moone was usually præfixed in the beginning of books, or whether such an halfe moone were denoted by the Latin word *Coronæ*: more probable is his opinion, \* who treating of this very matter, saith, that in old time a whole book was writtē in one continued page, neither did they the cut their books into many leaves, & bind them up in that manner as we doe; but that one entire page in which alone the whole book was

\* Pyr. hierog.  
lib. 34.



written, was wont to be rolled up upon a staffe, fastned at the end thereof, in manner as many large maps are now ad-daies with us. Hence it is *a volvendo*, that we call our books *volumina*. Volumes: this staffe on which the book is rolled was called *Umbilicus*; the same word signifieth a navill, which because it is the middle part, & as it were the centre of a mans body, hence approved Authors use the word to signify the middle of any thing; and happily that name was first given this staffe, because when the book was roled up, the staffe was the middle thereof: howsoever because it was fastned alwaies at the end of the page, hence *Umbilicus*, especially whē it is applied to a book, signifieth the end thereof: as *Horace*, *Ad umbilicum ducere*, to bring to an end. The two pummels, or ends of this staffe, which did jut out & appeare on each side of the volume, they called *Cornua*; & they were wont to be tipt with silver, or gold, or otherwise adorned. The title which was the beginning of every book, was termed *frons*. This seemeth more probable then that of *Turnebus*, and giveth greater light to that of *Ovid*,

*Candida nec nigra cornua fronte geras.*

Now that we may proceed to the matter whence we have digressed, it remaineth that we should declare the manner how they enacted their laws. All the Romans, though free Citizens had not power & authority of preferring the law, but only eight of their Magistrats, which they called *Magistratus Majores*: namely the *Prator*, the *Consuls*, the *Dictator*, the *Interrex*, the *Decemviri*, the *military Tribunes*, the *Kings*, and those *Triumviri*: unto these eight was added one of those whom they entituled *Magistratus minores*, namely the *Tribunus plebis*. If any of these Magistrates thought it fit to prefer a law, then did he first write it down at home, and consult with some lawyer, whether or no it might be for the good of the Commonwealth, whether it should not weaken any former law, or whether it was not formerly included in some other law, &c. These and many other



other cautions were to be considered before it was preferred, yea some would have the approbation of the whole Senate after the advice of their lawyer, though diverse times that hath been omitted. And the lawyer alone allowing it, the law was hanged out publicly in the market place for the space of three market daies, which kind of publishing the law was termed, *Legis promulgatio, quasi promulgatio*, during which time of promulgation, reasons were alleaged *pro* and *con* by the spectators: & all the people had so much time to consult of the conveniency thereof, and every one upon just reason had free liberty to admonish him that preferred the law, either to amend it, or to surcease the proposal. After the third market day (for unlesse it were upon an extraordinary occasion, no assembly might be called upon a market day, because of the country folkes businesses, they also having freedome of suffraging) the Magistrate did convocate the people to that place where the law was to be proposed: there the Town cleark, or Notary reading the law, the common crier proclaimed it; then did he which promulged it, make an Oration unto the people, perswading them that it might passe. Sometimes others of his friends would second him with Orations in his behalfe, as likewise others that disliked it, would by Orations dissuade the people, shewing the inconveniency thereof. After the Orations had been ended, an urne or pitcher was brought unto certain Priests there present, into which were cast the names of the Tribes, if the *Comitia* were *Tributa*; or of the Centuries, if they were *centuriata*; of the parishes, if *curiata*: then *sortibus aquatis*, that is, the lots being shaken together, they drew their lots; & that Tribe or Century whose name was first drawn, was called *Tribus*, *vel centuria praerogativa*, à *praerogando*, because they were first asked their voices. *Turnebus*, interpreting that of *Tully*, *Maiores voluerunt praeogativam omen esse iustorum comitorum*, interprets it; That the Romans did so depend upon the prerogative Century.



¶ Rosin, ant.  
lib. 6. cap. 7.

¶ Cic. pro  
Muræ,

¶ Huber. in  
lib. 1. Cic. ep.  
fam. 2.

¶ Fuchsi inst.  
medicin. l. 3.  
sect. 1.

¶ Stadius in  
Flor. l. 3. c. 7.

that they would alwaies declare him Consull that was chosen by them. *Turneb. adv. l. 5. c. 23.* That *Curia* upon which the first lot fell, was called a *Principium*, because that *Curia* did first suffrage: those Tribes upon whom the other lots fell; namely the second, third, fourth, &c. were termed *Tribus Jure vocata*. From this distinction it is, that such a mā as hath the voices of the prerogative Tribe, or Century, is said to have a *Omen prarogativum*: which good fortune whosoever could attain unto, was in great hope of obtaining the other voices of the *Jure vocata*, for they never, or very seldome would swerve from the determination of the prerogative Tribe, or Century. Whiles the people were busie in their lottery, in the mean time if any Tribune of the Commons would *intercedere*, that is, forbid the proceeding, he might be heard, and the whole assembly thereupon should be dismissed, likewise they were dismissed if either he which first promulged the law did alter his opinion, or if the Consull commanded supplications to be offered up in the behalfe of their Emperour, or any of those holy-daies called *Feria Latina*, vel *Imperatoria* to be observed upon that day; or if any of the people assembled were taken with the falling sickness (by reason whereof that disease is called by the Physitians at this day *Morbus comitialis*.) Lastly, the assemblies were dissolved by reason of the soothsayings, which kinde of dissolution was caused either by the civill Magistrate his observing of signes and tokens in the heaven, and that was called *Spectio*, and sometimes *de celo observatio*; the very act of this observation, though no unlucky token did appeare, dissolved the assembly: or else it was caused by the *Augures*, and civill Magistrate promiscuously, whensoever any civill token was seen or heard, either by the Magistrate, or Augure (amongst which thunder was alwaies counted the unluckiest;) at which time the assemblies were in like manner to be dissolved: this manner of dissolution was termed *obnunciatio*, or *Nunciatio*, *Obnunciabat, qui contra auspicia aliqua fieri*



*feri nunciabat.* Both these kindes are easie to be collected out of that speech in *Tully*, \* *Nos Angures nunciationem solam habemus, Consules & reliqui magistratus etiam spectationem.* Here we may fitly in way of conclusion unto this tract adde a just difference to be observed between these phrases, *Promulgare, Rogare, Ferre, & Figere legem.* *Promulgare legem*, was to hang up a law not yet asked, to the publique view of the people, to be examined by them touching the conveniency thereof. *Rogare legem*, was to use a certain oration unto the people, to perswade the conveniency of the law; which Oration because it began with this forme of words, *Velitis inbeatisne Quirites?* that is, O yee Romans, is it your will & pleasure that this law shall passe or no? Hence was it termed *Legis rogatio.* *Ferre legem*, was when the law had been approved of by the people, then to write it down upon record, and so to lay it up in the treasure-house; y *Cum approbata fuisset lex, in arario incidebatur, & in arario condebatur, & tunc demum lata dicebatur.* Lastly, *Figere legem*, was to publish the law after it had been approved and recorded <sup>z</sup> by hanging it up in tables of brasse in their market places, or at their Church doores. Hence it is that we use *Tabulam figere* in the same sense, namely to enact or establish a law, & *Refigere legem*, to disprove or cancell a law. <sup>b</sup> And that which was determined *Comitiis curiatis*, was termed *Lex curiata*; that which was *Comitiis centuriatis*, *lex centuriata*, that which was *Comitiis tribusis*, was not called a law, but *Plebiscitum*.

x Cic. orat. Philip. 2.

y F. Maturanius in Phil. 1.

z Corn. Tac. annal. lib. 11.

a F. Matur. in Philip. 12.

b Sig. de Iure prov. lib. 3 c. 1

## CAP. 3.

## De Comitiis curiatis.

**C**omitia Curia were those, wherein the Roman people being divided into thirty parishes did give their suffrages: They were so called from *Curia*, signifying a parish.



parish. And untill *Servius Hostilius* his time, who did first institute the *comitia centuriata*, all things which were determined by the suffrages of the people, were determined by these *curiata comitia*. But after the other two sorts of assemblies had been established, these *curiata* were used only either for the enacting of some particular laws, or for the creating of some certain Priests called *Flamines*. For the better understanding hereof we must remember that though at first these thirty parishes were parts of the three Tribes (each Tribe being divided into ten parishes,) yet in process of time the increase of the Roman people was such, that a great part of the Roman fields were filled with buildings and places of habitation, insomuch that the Tribes of the Romans were increased to thirty five: but the parishes (because none that dwelt out of the city were tied to the rites and ceremonies of the Roman religion) did not increase, so that the parishes did not always remain parts of the Tribes. Hence it followeth that all the Romans had not power to suffrage in these assemblies, but those alone, who dwelt within the city: for no other could be of any parish. The place where these assemblies were held, was the great hall of Justice, called from these assemblies, *Comitium*. Before these assemblies were held, it was required that some lawfull Magistrate for some competent time before hand should solemnly proclaim them, and the thirty Serjants (each parish having for that purpose his Serjant) should call the people together; as likewise three *Augures*, or at least one should be present to assure them by their observations, either of the favour, or displeasure of the Gods. Upon these premises the matter was proposed unto the people, who if they liked it, then they proceeded unto their election; if otherwise they disliked it, then did the *Tribunus plebis intercedere*, that is, forbid their proceedings: whereupon their assemblies were presently dissolved.



## CAP. 4.

## De Comitiiis Centuriatis.

AS those former assemblies were called *Curia à curiis*, so were these called *Centuriata à Centuriis*. *Servius Tullius* caused a generall valuation of every citizens estate throughout *Rome*, to be taken upon record, together with their age and according to their estates and age, he divided the *Romans* into six great armies, or bands, which he called *Classes*; though in truth there were but five of speciall note: the sixth contained none but the poorer sort, and those of no worth or esteeme. The valuation of those in the first *Classis* was not under two hundred pounds, and they alone by way of excellency were termed *Classici*: and hence figuratively are our best and worthiest authors, called *Classici scriptores*, *Classicall authors*.<sup>d</sup> All the others, though<sup>d</sup> A Gel. l. 7. they were enrolled in the second, third, or any other *classis*,<sup>cap. 13.</sup> yet were they said to be *Infra classem*. The valuation of the second band was not under sevenscore pounds. The valuation of the third was not so little as an hundred pounds; of the fourth not lesse then forty pounds, of the fifth not lesse then twenty five pounds. The sixth contained the poorer sort, whom *Horace* calleth *Tenuis censûs homines*, men of small substance; and also they were called *Proletarii*, à munere officioque prolis edenda, as if the only good that they did to the common-weal, were in begetting of children: & sometimes they were called *Capite-censî*, that is such as paid very little or nothing at all towards subsidies, but only they were registered among the citizens, as it appeareth by<sup>e</sup> *Sigonius*. These six great bands or armies were subdivided into hundreds, called in Latine *Centuria*. The first *Classis* contained fourescore centuries of foot-men, and eighteen of horse-men; the second contained twenty centuries of foot-men, and two of

T

workmen

<sup>e</sup> Sig. de jure  
Rom. l. 1. c. 4.



workmen, which followed after to make military engines & weapons; the third also, as likewise the fourth contained 20. centuries of footmen, but to the fourth were added two other centuries of Trumpeters, Drummers, & such like, who upon just occasion did *Classicum canere*, sound the alarme, & upon just occasion did againe *receptui canere*, sound the retreat: the fift *Classis* contained thirty centuries of footmen: the sixt, or last *Classis* contained one century: so that in all the six *Classes* were contained one hundred foure score and thirteen centuries. Where we must note that all the centuries of footmen did consist, the one halfe in every *classis* of the younger sort, who were to make warre abroad upon the enemies; the other halfe of old men, who remained at home for the safety of the city. All that have been hitherto spoken of these *Centuriata comitia*, may be collected out of *Sigoni-um* in the place above quoted. The chief commander of every cētury was called *centurio*; the rod, or tip-staffe wherewith he did strike his souldiers to keep them in aray, was called by *Pliny Centurionum vitis*: So then we may perceive, that those *Centuriata comitia* were those, wherein the people did give their voices by centuries, or hundreds. Now the centuries did not consist of those alone w<sup>ch</sup> had their places of habitation at *Rome*, but of certain *Municipall* states also, & such colonies or other states, that could <sup>d</sup> *Plenum civitatis jure cum iure suffragii adipisci*. Now the custome in old time was that all these cēturies should march in their armour after the Magistrate which assembled them, into the *Campus Martius*, there to give their voices. But this custome continued not long; for thereby they did disarme the city, & give their enemies (if any should assaile them in time of their assemblies) the greater advantage: for their greater security thereof, they appointed a flagge to be hanged out upon the mount *Ianiculus*, some few armed men standing there in watch and ward for the safeguard of the city; and when the assembled was to be dissolved, then did the watch depart, & the

d Rosin. ant.  
lib. 6. cap. 10  
e Rosin. ant.  
Rom. lib. 6.  
cap. 16.



the flag was taken down: neither could any thing after that be determined; but if they continued their assemblies, then did they proceed to the giving of their voyces, in old time thus; Those centuries of the first *Classis* being the wealthier had the prerogative of suffraging first, and because this first *Classis* contained more centuries then all the rest, therefore if they could agree among themselves, the other centuries were never asked their voices. This kind of suffraging being somewhat partiall, in as much as the richer & wealthier being placed in the first *Classis*, did overway the elections against the poorer sort of people; thence did the after ages appoint that that century should have the prerogative of suffraging first, upon whom the lot fell. The other centuries were all called *Centuria Iure-vocata*, and did give their voyces not by lots (as the *Tribus Iure-vocata* did) but the elder and wealthier centuries did suffrage next after the prerogative century accordingly as their place required.

f Rosin ant.  
Rom. lib. 6.  
cap. 20.

## CAP. 5.

*De comitiis Tributis.*

FOR the better understanding of these assemblies by Tribes, or Wards, it will be needfull first to learne, that this word *Tribus* in this place doth signify a certaine region ward, or locall place of the city, or the fields belonging thererunto, according to that, & *Tributa comitia erant cum ex regionibus & locis suffragabantur*. It was so called either *à tributo dando*, every severall region or quarter paying such a tribute; or *quia primò tres tantum fuerunt*, the whole city being at first divided only into three regions, or wards, each nationall tribe having his severall region or locall tribe to dwell in. The first nationall tribe called *Ramnenses* did inhabit the mount *Palatine*, and the mount *Calius*, and those two hills made the first locall tribe. The second nationall

g A. Gel. lib.  
15. cap. 27.



tribe called *Tatienſes*, did inhabit the *Capitoll*, and the *Quirinall* mountaine, which two mountaines made the ſecond locall tribe. The third nationall tribe did inhabit the plaine between the *capitoll* and the *Palatine* hill, and that plaine was called the third locall tribe. Of theſe tribes more is ſpoken in the firſt diviſion of the *Roman* people. Only here we muſt note thus much, that in proceſſe of time after the city was enlarged, and the number of *Roman* citizens increaſed, theſe locall tribes were alſo augmented, ſo that they amounted at the laſt to the number of 35. ſome of them being called *Urbanæ*, others *Ruſtica*; <sup>h</sup> *Urbana ab urbis regionibus*, *Ruſtica ab agri partibus erant nuncupate*. And of theſe two ſorts the *Tribus ruſtica* were accounted the more honourable. Moreover we muſt remember, that a man might be reputed of this or that tribe, although he had no place or habitation therein: Concerning the place where theſe *Tributa comitia* were had, ſometimes they fell out to be in the *campus Martius*, ſometimes in their great hall of juſtice called *comitium*; ſometimes in the *capitoll*; many times in other places, according to the diſcretion of the *Magiſtrate* which cauſed theſe aſſemblies.

<sup>h</sup> Sigon. de  
jure Rom. l. 1.  
c. 3.

## CAP. 6.

## De Candidatis.

**I**T ſhall not be impertinent to annexe ſome neceſſary obſervations touching the *Roman* petitors or ſuitors for bearing office: where we will obſerve theſe three phraſes, *ambire magiſtratum*, *inire magiſtratum*, and *abire magiſtratu*. The firſt ſignifieth, to ſue for an office; the ſecond, to enter into the office; the third to depart out of the office. Again the difference of theſe phraſes, *conſicere legitima ſuffragia*, & *Explere ſuffragia*. <sup>i</sup> The firſt ſignifieth to have ſo many voyces as the law doth require. The ſecond ſignifieth to have more voyces

<sup>i</sup> Roſin. antiq.  
Rom. l. 20. c.  
6.



voices then any other competitor, but not so many as the law requireth.

These persons were termed *Candidati*, à *toga candida*, from the white gown which they did weare, as it appeareth more at large, where we have spoken *De Romanâ togâ*. That they might the easier procure the good will of the people, these fowre things were expected from them, First *Nomenclatio*, the saluting of every citizen by his name; for the better discharge of which, they had a certain follower, which should by way of prompting, tell every citizen's name as he passed by, and hence this prompter was sometime called *Nomenclator*, which word doth properly signify a common crier in a court of Iustice, such as call men to their appearance, whence they had their name from *Nomen & calo*, an old latin word to call; sometimes *Monitor*, sometimes *Factor*, *ab infarciendo in aures*. Secondly, *Blanditia*, that is, a friendly compellation by the addition of some complementall name, as well-met friend, brother, father, &c. Thirdly, *Affiduitas*, that is an hot canvassing, or soliciting men without intermission. Lastly, *Benignitas*, a bountifull, or liberall largesse, or dole of money called *congiarium*, from the measure *congius* containing a gallon, because their dole was at the first made of oyle or wine distributed in those measures. Howbeit *congiarium* any dole, gift, or largesse in money, or otherwise is called *congiarium*. The distributors of this dole were called *divisores*, & *sequestres*, although sometimes *sequester* signified a briber or corrupter of a Iudge. Likewise their bounty or liberality consisted in providing great dinners, & exhibiting magnificent shewes unto the people &c. where we must observe, that as often as this largesse is called *Largitio*, it is taken in the worst sense, namely for an unlawful bribing of the suffragers, under a pretended largesse, *Benignitas liberalitatem magis significat quàm largitionem.*

Rosin. ant.  
Rom. l. 7. c. 8.

Cic. orat.  
pro L. Mur.  
*Mercennarius*  
*servum qui*  
*dicit nomina,*  
&c.

Hor. l. 1. ep. 6.  
Cic. loco supra citato.

G. Trapez.  
in Philip. 2.

m Sig. de jud.  
lib. 2. cap. 29.  
Barth. Latomus in orat.  
pro M. Cael.

Cic. orat. L. Muran.



## CAP. 7.

## De Romanis vestibus.

**V**We may observe in reading old authors, that as well the *Romans* as the *Grecians* had divers distinct habits, or outward vestiments. The *Grecians* had their mantle called *Pallium*; the *Romans* their gowne called *Toga*: and by this different kind of garment the one was so certainly distinguished from the other, that this word *Togatus* was often used to signify a *Roman*, and *Palliatum* a *Grecian*. <sup>f</sup>*Togati pro Romanis disti, ut Palliati pro Grecis*. Before we proceed, we will first observe what this *Toga* was, and then how many sorts there were. <sup>g</sup>*Toga à tegendo dicta est*. It was made commonly of wooll, but according to the worth and dignity of the person, sometimes of courser, sometimes of finer wooll; as we may collect by that of *Horace*.

--- *Mihi sit toga, quæ defendere frigus*  
*Quamvis crassa queat* ---

<sup>h</sup> Mic. Toxita  
ib.

<sup>i</sup> Rosin. ant.  
Rom.

<sup>k</sup> Sig. de jud.  
lib. 3. cap. 19.

<sup>l</sup> Sig. ib.

We must note with *Toxita*, that no women of any credit did wear the *Roman* gown, but instead thereof did use a garment called *stola* from *στέλλω* signifying *demitto*, quòd usq; ad talos demitteretur: whence old Poets, when they would point out unto us an infamous or lewd strumpet, they would terme her <sup>i</sup>*mulierem togatam*. <sup>k</sup>This *toga* sometimes was worne open and untuckt; then was it called *toga aperta*: other times it was tuckt up, and then it was called *toga præcincta*. This cincture or girding up of the gowne was according to <sup>l</sup>*Sigonius* threefold; *Cinctura laxior*, *Astrictior*, and *Cinctus Gabinus*; *Cinctura laxior*, or the loose kind of girding was such that notwithstanding the tuck, yet the tayle trailed on the ground; *Cinctura astrictior*, the close kind of girding was such, that after the gowne had been lapped

or



or tucked up, it should not reach so farre as the feet. The first kind of these cinctures did argue a remisse, soft, and effeminate minde; the latter did signify the promptnes or readinesse of the person; <sup>m</sup> Unde, *Alitè præcincti, pro expeditis dicti* <sup>m</sup> Sig. ibid. *sunt*. Thirdly, *Cinctus Gabinus* was a warlike kind of girding, not so that the whole gowne should be tucked up about the middle, but that it being cast quite backward, the party should gird himselfe with one skirt thereof. <sup>n</sup> This kind of girding was so called from a certaine city of *Campania* called *Gabii*, because upon a time the inhabitants of this city being at sacrifice, were set upon by their enemies; at which time they casting their gownes behind them, & girding one lapper or skirt about them, went immediatly to warre even from the altars, and got the conquest. <sup>o</sup> In memory of which ever after; the *consul* when he should proclaime war, girded himself in like manner. Neither had the *consul* alone a peculiar garment when he proclaymed war, but every souldier in time of war did weare a different kind of garment from the gown, which they called *Sagæ*: we may english it a souldiers coat. Whence *Tully* useth this phrased *ad sagæ ire*, which <sup>o</sup> Alex. Gen. *Erasmus* hath paralleld with this *Ad certamen se accingere*, <sup>dier. l. 1. c. 14.</sup> to buckle for warre. Infomuch that *Cedant sagæ togæ*, is equivalent to that of the Oratours, *Cedant arma togæ*. Touching the difference of the *Roman* gownes, I find them distinguished by <sup>p</sup> *Sigonius* according as followeth; in *Togam Puram*, *Candidam*, *Pullam*, *Prætextam*, *Paludamentum*, *Pictam*, *Trabeam*. *Toga pura* was the common ordinary gowne worne by new married women, and *Tanaquill prima texuit vestem punicam, quâ simul cum toga pura tyrones induuntur, novæq; nuptæ*. <sup>q</sup> *Plin. lib. 8. cap. 48.* and by private men at manellate, about the sixteenth yeare of their age, at which time they were said, *Excedere ex ephebis*, that is to be past stripplings. Notwithstanding the sixteenth yeare was not alwaies strictly without exception observed; <sup>r</sup> for *M. Aurelius* was permitted to weare this gowne being but fifteen yeares <sup>q</sup> *Rosin. anti. lib. 7. cap. 30.*



Et toga non  
rallat vince  
re iussa nives  
Mauri.

¶ Resin. ant.  
Rom. l. 5. c.

32.  
¶ Aldus Ma-  
nu.

¶ Cic. in orat.  
pro Cælio.

¶ Sig. de jud.  
lib. 3. cap. 19.

¶ Sigon. lib.

¶ Sigon. lib.

old; & *Cālignula* did not weare it till the nineteenth yeare of his age. This kind of gown besides that it was called *Pura*, was also sometimes called *virilis*, sometimes *libera*. It was called *pura* in respect of its pure white colour, being free from all admixtures of purple, or any other colour; and therefore some have termed it *ἁλόνιον*, all white, others *ἀπύργον*, void of purple. It was called *virilis*, because it was given to striplings now growing to mans estate. Whence we use to say of a stripling past 16 yeares of age, *virilem togam sumpsit*, he is now become a man. Lastly, it was called *libera*, because then they did receive some beginning of freedome as being about that time freed from their schoolemasters, & overseers. This kind of gown was not made open, but sewed downe to the bottome, and also it was made without sleeves, so that if at any time they had occasion to use their armes, they would take up their gowne and cast it quite behind them, or upon their shoulders. But these striplings could not for one whole years space, cast back their gownes in that manner for their liberty of their armes without the imputation of immodesty, as it appeareth by *¶ Cicero, Nobis annus erat unus ad cohibendum brachium togā constitutus*. The like liberty it seemeth was denied those that stood for places of office; and thence is it, that *Horace* wisheth such to hire them a servant,

--- *Lauum*

*Qui fodiat latus, & eogat trans pondera dextram  
Porrigere---*

In which place by *Pondera* is understood the *Roman* gown, as *¶ Sigonius* hath expounded that place. Now for the understanding of *Toga candida*, we are to learne a difference between this *candida toga*, and the *toga pura* above spoken of, which is oftentimes called *toga alba*, both of which were white, but differed in the degree of whiteness. The *toga alba* had only the naturall whitenesse of the wooll; the *toga candida* had an artificiall white dye: whereby the glasse of the white was made more orient and intensive. Or else as *¶ Sigonius*

*ninus*



him hath observed out of *Ishdorus*, *intendenda albedinis causâ cretam addiderant*, that is, they chalked it to increase the whitenesse thereof. And hereunto *Perfius* alludeth.

— *Quem ducit hiantem Cretata ambitio.*

Whence *Polybius* calleth it *togam auream*, that is, shining or splendent. Moreover whereas the *alba toga* was the ordinary Roman gown which commonly the Roman citizens did weare, this *candida toga* was onely worne by those which did *ambire magistratum*, sue for a magistracy or place of office, who during the time of their suit were called from their gown *Candidati*: and *Quintilian* borrowing his metaphor from them, hath called a young student *eloquentia candidatum*. The third sort of gown which I termed *togam pullam*, was a black gown, and therefore were two severall kinds; the one cole-black, which was worne *luctûs causâ*, in token of mourning; and the mourners were thence called

*Atrati*, and as often as they did weare this gowne, they were said *Mutare vestem*, <sup>z</sup> which phrase in old Authors

doth signifie nothing else but to goe in mourning apparell; The other not cole-black, but only fould or stained, and that

was worne *reatûs causâ*, in times of a raignment, and those that wore it, were called *sordidati*, *â sordibus in veste*, from

the spots or stains in the gown. Where we must note, that in proceffe of time *Toga pulla* became the ordinary gowne,

wh<sup>ch</sup> the common people did wear; at wh<sup>ch</sup> time the ordinary gown wh<sup>ch</sup> the Citizens of better place & esteem did wear,

was the *toga candida*: whereupon there did then grow a distinction of the citizens, unknown to the former age, saith

*Rosinus*, namely that some were termed *candidati*, others *pullati*: *Candidati* were those, not which became suiters for

places of office (as in old time it signified) but those which did live in better repute then others, from whence it is, that

<sup>a</sup> he whose office was to read the Emperours letters in the Senate was called *Candidatus principis*, or *Quaestor candida-*

*tus*. It did somewhat resemble the office of the King his

<sup>z</sup> Sig. de jud.

lib. 3. cap. 19.

Cic. orat. pro

P. Sext.

*suum dolorem*

*veste mutata*

*significabant*

*Romani.*

<sup>a</sup> Feneft. de

Mag. Ro. c. 3.



Majesties chiefe Secretary. *Pullati* were those of the commonalty or inferiour sort. The fourth sort of gown was the *toga prætecta*, so called, *quia ei purpura prætecta erat*, because it was garded about with purple silk. This kinde of gown at the first was used onely by the Roman Priests, and chiefe Magistrates: neither was it lawfull for such as did weare that gown to be arraigned, or sentence to bee given on them untill that gown was put off. In continuance of time this *toga prætecta* was permitted first to Noble-mens children: afterward to all Roman children in generall: whereupon, *Togatus à prætecto differt ut privatus à magistratu, & vir à puero*, and *etas prætecta*, is taken for childhood; and *prætectati* sometimes for Magistrates, but commonly for young children. The fift sort of gown was called *Paludamentum*; it was a military garment, which none but the L. Generall or the chiefe Captaines did use to weare: *Isidorus* said it was not only garded with purple, but with skarlet and gold lace, whence it was sometimes called *toga purpurea*, sometimes *coccinea*. It was much like the habit which the *Græcian* Emperour was wont to weare called *Chlamys*; yea now it is called *Chlamys*; we may english it an *Heralds* coat of Armes. The sixt sort of gown was called *toga picta*, because in it were imbroadred goodly pictures with needle-worke: it was also called *Purpurea*, not because of any purple-gard (in which respect the *prætecta*, & the *paludamentum* were called *purpurea*) but because it was all over with a purple die: it was by some termed *toga palmata*, because in it many palme branches being the reward & token of victory were brought, whence by others it was called *toga triumphalis*, because Emperors in their triumphs did weare such gównes. The last sort of gown was *Trabea*, whereof there were <sup>b</sup> three severall kinds; the one woven all of purple, which was consecrated unto the Gods: the second was purple woven upon white, and this only kings & Consuls might weare: the third was skarlet woven upon purple,

¶ Pet. Pellitarius in orat. pro A. Cæcin.

e Alex. gen. dier. l. 5. c. 18.  
d Sig. de Iud. lib. 3. cap. 19.  
e Sigon. lib.

f Rosin. antiq. lib. 5. cap. 31.  
g Sig. de Iud. lib. 3. c. 19.

h Serv. Ænei. lib. 7.



purple, and this the *Angures* only did weare. i This last *Angures* i Alex. Gen: diem. l 5. c. 18.  
 sort was therefore called *trabea anguralis*, the second *trabea regia*, the third *trabea consecrata*.

C A P. 8.

De Tunica.

**T**Hose coats which were worne under the gown, were called *Tunica*; and that they were worne under the gowne it appeareth by that adage, *Tunica pallio propior est*, that is, every one for himselfe first; or according to our English proverb, close sitteth my shirt, but closer sitteth my skin.<sup>k</sup> This *tunica* was both narrower and shorter then the gown: at first it was made without sleeves: afterward with sleeves, and by it, as well as by the gown were Citizens distinguished. The first sort of coats was made of white cloath commonly,<sup>l</sup> but purfled over and embroadred with studs of purple in manner of broad nayle heads; whence it was called *Laticlavia*, or *Latius clavus*; and the persons wearing this coat were Senators, called thence *Laticlavii*: The second sort belonged unto the Roman Knights, and it differed in making from the first, onely that the purple studs or embroadred works of this, were not so broad as the former: whence the coat was called *Angusticlavia*, or *Angustus clavus*, and the persons wearing it were called *Angusticlavii*. The third sort belonged unto the populacy and poorer sort of Romans; it was made without any purfled workes, being called *Tunicarecta*. This coat was given together with the *Virile* gown to striplings past sixteen yeares old, & to new married women. And as the *recta tunica* was given with the *Virile* gown; so was the *tunica clavata* given together with the *toga praetexta*; and the *Laticlavia*, otherwise called *tunica palmata*, given with the *toga picta*. The fourth & last sort belonged unto women, being a long coat

Sig. de jud. lib. 3. cap. 20.

Salmuth. in Pancirol. lib. rerum deperdit. c. de fibul. Vid. Turneb. advers. l. 1. c. 20.



m Rosin, ant.  
lib. 5. cap. 35.  
n Sig. de jud.  
lib. 3. c. 19.

o Sigon. ib.

p Sigon. ib.

reaching down unto the heeles; they called it *Stolam*. Vp<sup>n</sup> on it they did weare an outward garment <sup>m</sup> called *pallium*, and sometimes *palla*, *quia palam gestabatur*. <sup>n</sup> *Sigonius* saith that this *palla* was a certaine gowne used by stage-players: howsoever certain it is, that not only women, but men also and children did weare this kind of garment. Besides the Roman gown and coat there remain other parts of their apparell to be spoken of; such are these which follow: *Lacerna*, which some doe english a cloak, but <sup>o</sup> *Festus* would have it to be a litle kind of hood, which men should weare to defend themselves from the rain & weather; It was made that either side might be worn outward; & at first it was worne only in war, so that *lacernati* stood in opposition with *togati*. <sup>p</sup> *Isodorus togatos pro urbanis, lacernatos pro militibus usurpatos scribit*. Afterward as we may conjecture it was made longer in manner of a cloak, for it was diuerse times worne upon their coats instead of gownes. Another kinde of garment was the *Pennula*, so called *quasi pendula*, we may translate it a long hanging cloake. A third was called *Mitra*, which sometimes did signify a certaine attire for womens heads, as a coife or such like; though this kinde of attire was more properly called *Calantica*; other times it signified a girdle, which more properly was called *Zona*; This *Zona* chiefly signified a souldiers belt, or a marriage girdle: The souldiers belt was lined within in the inside, where when they went to war, they did put their mony: whence *Horace* saith of a man that hath lost his mony, *zonam perdidit*. And *Zona* to be girt, signifieth *Ἐνδύσαι τὴν ζώναν*, *Arma induere*. *Cal Rhod. l. 2. 19.* happily because that part of the body which was girt, was consecrated to *Mars*, as the forehead was to every mans particular *Genius*, the armes to *Iuno*, the brest to *Neptune*, the reines to *Venus*, the feet to *Mercury*, and the fingers to *Minerva*. *Alex. ab. Alex. l. 2. c. 19.* Young maides when they were married were wont to have a marriage girdle tied about their middle, which their husband at the



the first night of their marriage should untie: whence *zonam solvere*, hath been translated to deflowre a Virgin: this marriage girdle in former times was called *Cestus*, from whence commeth the Latin word *incestus*, and the English word Incest: which in truth signifieth all kinde of pollution committed by undoing, or untying this girdle called *cestus*: but now in a more strict acception it signifieth onely that kinde of naughtinesse, which is committed between two of neere kin: & that other folly which is committed with a strangers wife, is now properly called *adulterium*; & that which is committed with a maid or widdow *stuprum*. The last thing touching their apparell is their shooes. \* *Calcea-mentorū genera duo fuerunt; calcens, & solea*. For the soale of the shooe called in Latine *solea*, sometimes *crepidula*, and in *Cicero* his time *gallica*, was tied on to the bottome of the foot with leathern straps or buckles, and so worne instead of shooes: the divers kindes of these shooes did distinguish the Roman people also. To omit the difference in colours, wee may reduce the chiefe kindes to five heads, *Mullei*, *Uncenati*, *Perones*, *Cothurni*, *Socci*. All these sorts of shooes were made halfe way up the leg, as the Turkish shooes are, according to *Iosephus Scaliger*: and they were either laced close to the leg, as many of our boots are now adaies; or clasped with taches or halpes. The first sort called *Mullei* <sup>frō</sup> the fish *mullus*, being like unto it in colour, were also called from their clasp, *calcei lunati*, because the elaspes were made in forme of an halfe moone, which half-mooned clasp resembling a Roman C, signified an hundred, <sup>u</sup> intimating thereby that the number of the *Senators* (they onely being permitted to weare this kinde of shooe) were at first a full hundred and no more. Others are of opinion that they wore this mooned clasp to put them in minde that the honour to which they had attained, was mutable and variable as the moon. For they think that these *Lunati calcei* were not received as a token of Nobility onely at Rome, but in other

q Caelin orat.  
pro Milone.

r Rosin, antiq.  
Rom. l. 5. c. 36

f Salmuth, in  
Pancirol, lib.  
rerum deper-  
dit. cap. de fi-  
bulis.

r *Appositam  
nigra lunam  
subtexit alu-  
ra.* Iuven.

u Salmuth, in  
Pancirol, lib.  
rerum deperd.  
cap. de fibul.



places, to which purpose they interpret that of the Prophet  
*Esay, cap. 3. In die illo aufert Dominus ornamentum calceorum & lunulas. Cal, Rhod. lect. Antiq. l. 20. c. 28. Vincinati calcei*, were those, which the souldiers were wont to weare, I take them to be the same with those which they called *Caliga*, from which kind of shooes *C. Caesar Caligula* had his name, because he was borne in the army. *Quia natus in exercitu fuerat, cognomen calceamenti militaris, id est, Calignula sortitus est. Aurel. Vict. Epit. de vita imperat. Perones* (as we may conjecture) were laced up the leg: for *Tertullian* making but two sorts of shooes, saith, there were the *Mullei* called from their clasps *Lunati*, and the *Perones* made without such halfe-mooned clasps, called also *calcei puri, quoniam ex puro corio facti*; and these *Perones* or *puros calceos* all the other *Romans* did weare \* with this note of distinction, that the Magistrates shooes were beset with precious stones, private mens were not. Thus much concerning both the kinds and fashion of the shooes may be collected out of *Rosinus* in the place above quoted. The description and use of the *Cothurnus*, & *Soccus*, may be seen in the tract *de Romanis Indis*.

\* Salmuth in  
 Pancirol. lib.  
 rerum deperd.  
 s. de fibula.





## LIB. 3. SECT. 2.

## Of the Roman Magistrates.

## CAP. I.

*De Magistratibus Romanis.*

BEing to treat of the *Roman* Magistrates will first see what the definition of a Magistrate is: A Magistrate is he ° who receiveth by publick authority the charge and oversight of humane affaires belonging to the commonwealth. These *Roman* Magistrates were either to be chosen only out of the better sort of Romans, called the *Patricii*; or else only out of the commonalty. P The first were thence called *Magistratus Patricii*, the second *Magistratus plebei*. The *Patricii* had power to hinder the assemblies of the people; namely their *Comitia*, by observing signes and tokens from the heavens: howbeit some of them had greater power, others lesse; insomuch that some were called *Majores Magistratus*, *quoniam habebant majora auspicia*, id est, *q magis rata*. Others were called *minores Magistratus*, *quoniam habebant minora auspicia*. Of these in their order.

o Sig. de jur.  
Rom. l. 1. c. 29

p Sig. de jur.  
Provinc. l. 3.  
cap. 1.

q Feneft. de  
Magist. Rom.  
cap. 1.

## CAP. 2.



## CAP. 2.

*De Rege & Tribuno Celerum.*

**I**N the infancy of Rome, it was governed by a King unto *Tarquinius Superbus* his time, who by maintaining that shamefull act of his sonne towards *Lucretia*, did so incense the people, that they did not only for the present exile him, but decreed that their City should never after that bee governed by a King. This King had absolute rule and government over the city. For the safety of his person he had three hundred chosen young men alwaies to bee attendant about him, much like unto our Kings Majesties Guard here in *England*, or rather his *Pensioners*. They were called *Celeres* à *celeritate*, from their readinesse in assistance: sometimes they were called *Trosculi*, because they alone without the help of any foot-men did take a certaine City in *Etruria* called *Trosculum*. Other times they have been called *Flexumines*, whereof as yet there hath been no certain reason rendred. Each hundred of them had their severall overseer called *Centurio*; & over them all there was one generall overseer, and chief commander, whom they called *Præfectum vel Tribunum Celerum*, his place being next to the King. A second sort of attendants about the King were called *Littores* à *Ligando* according to that, *Littor colligamano*. They were by the *Grecians* called *παβανχοι*, which we may render Virgers frō *παβαν* a rod, and *χοι*, to have: though sometimes *παβανχοι* doe signifie the same as *παβανδοι*, the rehearsers of *Homers* verses, or in generall of any other *Poets*: *ὡς δὲ τὸ παβανδοῖς*, from patching together other mens Poems. For the reciters of *Homers* verses were wont to hold a rod or wand in their hand during the time of rehearsall. *Cæli. Rhod. l. c. 29.* They did somewhat resemble our Serjants, there being in number twelve of the, Their office was to carry certain bundles of birchen

Plutarch, in  
Romulo.

Plin. l. 33.  
cap. 2.



birchen rods with an axe wrapped up in the midst of them: the rods in Latin were called *Fasces*, the axe *Securum*. The reason why they carried both axes and rods, was to intimate the different punishment that belonged to notorious & petty malefactors. The reason why they were wrapped up together was not only that they might thereby be more portable, but that the anger of the Magistrates might be somewhat allayed, whilest they were unbinding. Hence, because these *Fasces virgarum & securium*, did betoken honour and chieftome in place and authority, by the figure *synecdoche*, this word hath been used to signifie honour and dignity, as *Fasces suis abrogatis*, he being discharged of his magistracy or dignity. And *Fasces submittere*, to give place, or yeeld unto, *Valer. Publicola* gave the occasion of the proverb. He to insinuate himselfe into the hearts of the people is said, *Submittere fasces populo quoties prodiret in concionem*. Some interpret it, as if hee were went to command the Serjant quite to depart out of the assembly with their rods, which opinion *Plutarch* in *Publicola* confuteth, writing thus, αὐτὸς τὴν τοῦ βασιλέως εἰς ἑκκλησίαν πειρῶν, ὑπὸν τὸ δῆμον, καὶ ἐπέκλινε. *Fasces ipsos in concionem progressus populo submisit inclinavitq.* So that the phrase signifieth properly, the not holding up of the rods, or rather the laying them down as it were at the feet of the people. *Cal. Rhod. l. 12. c. 7.*

† *Ioac. Carnotarius* in orat. pro *Flacco*. *Immedicabile vulnus esse recidens*, &c.

CAP. 3.

*De Senatu, & quis Princeps Senatus, & qui Senatores Pedarii?*

**T**ouching the election of the *Senators*, the number of them, and the distinction of them into *Senatores majorum & Senatores minorum gentium*, sufficient hath been delivered in the second division of the *Roman* people; as likewise in the third division hath been shewing the habit



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Ioac. Canonicus in orat. pro Placco. Immedicabile vulnus ense recidendum, &c.

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or gown by which the *Senators* were distinguished from the *Roman Gentlemen*. Here therefore it shall be sufficient for us to understand, that every solemn meeting, or consistory of these *Senators* was called *Senatus*. The fore-man of them (which could be no other then such, as had been either *Consul* or *Censor*) was called *Princeps Senatus*, and his opinion was alwaies first asked. Now among those that had borne those foresaid offices, it was in the *Censors* power to make whom he would fore-men. The decree of this consistory was called *Senatus consultum*. And many times it is written with these two letters only S. C. In like manner their preface to these decrees was commonly these two capitoll letters B. F. That is, *Bonum factum*, *Sueton. Jul. Caesar. 80.* and it had the same use as, *In nomine Dei* with us. The place where this consistory was had, they called *Senaculum*: None was ordinarily admitted into the place of a *Senator*, before the five and twentieth yeare of his age: and of those that were admitted, some were allowed to ride unto the Senate-house in a Curule chaire, namely when they had borne such office, which gave them right unto that chaire: others which had not borne such office went on foot: \* whence these latter were called *Senatores pedarii*. They determined their acts which they called *Senatus consultum* sometimes by departing down their benches, and dividing themselves into sides; those which did approve that which was proposed, sided with the party who did *Referre ad Senatum*, that is, propose the matter unto the Senate; the others departed unto the contrary side; or if they came not down at all, but sate still on the benches, then did they signify by holding up, or beckning with their hands, what side they would take. Now if the major part were easie to be discerned, then they rested there, terming that act to be decreed *per discessionem*: and hence these and the like phrases have taken their beginning, *In illius sententiam iturus sum*, and *Manibus pedibusq; discedere in alicujus sententiam*, that

u Mart Phil.  
tician Cic. l.  
1, ep. fam. 1.

x Mart Phil.  
let. ibid.  
It. A. Gel. no.  
Attic. l. 3. c. 18

y Hubert. in  
Cic. lib. 1. ep.  
fam. 1.



that is, to be fully perswaded of ones opinion. Now if both companies were almost equall, so that the major part could not easily be discerned, then did they proceed to give their voices, and that which was thus determined was said to be decreed, *per singulorum sententias exquisitas*, that is, by voices. Here we may observe that to those, who were favourably heard in Senate, *Hic senatus dari dicebatur*; & likewise they were said *stare in Senatu*: as on the contrary they were said *jacere*, whom the Senate neglected or rather condemned. <sup>a</sup> *Cum mihi stanti jacens minaretur*, saith <sup>b</sup> Tully. If any Senator were absent without a lawfull excuse, then was he fined: and for the payment thereof, hee did put in a pledge, which if he did not ransom, then did the common Treasurer *Cedere vel concidere pignora*, that is, strain or seaze upon the pledges, making common sale thereof, in which sense those two phrases are used, namely, *capere pignora*, & *auferre pignora*, that is, to strain or seaze upon a mans goods.

<sup>a</sup> Ascensus in Cic. l. 1. epist. fam. 4.  
<sup>a</sup> Cic. orat. de arusp. respon.  
<sup>b</sup> Rosin. antiq. l. 7. c. 7.

C A P. 4.

De Consulibus.

**A**FTER the expulsion of *Tarquinius Sup.* the last Roman King, all the Citizens in Rome assembled, and concluded that the government of the city, which before was in the hand of one alone Governour, called their King, should now be divided between two: who at first (before there was any subordinate office as a *Prætorship*) the Romans called *Prætores, quod præirent populo*. Not long after they were called *Judices à judicando*. In proesse of time they were known by no other name then *Consules à consulendo populo*.  
<sup>d</sup> No citizen was ordinarily created *Consul* before the forty third yeare of his age. Neither might any be chosen without speciall dispensation, either of their absence out of Rome, or in time of their triumph; which was the reason

<sup>c</sup> Rosin. antiq. Rom. l. 7. c. 9.  
<sup>d</sup> Cic. orat. Phil. 5.  
<sup>e</sup> Suet. Iul. Cæsar. cap. 19.



that *Julius Caesar* was glad to forgoe his triumph at that time when he was Consul with *Bibulus*. The signes or tokens of this *Consular* dignity were the twelve *Lictors* carrying their bundles of rods and axes, the first month before one Consul, and the second before the other, as formerly they had done before the Kings.\* Now he that had the rods carried before him in the first moneth, either he had more children then the other, for the *lex Julia* gave preoedency to him who had most children, or he was elder then the other, or in time of the election he was pronounced before the other, for which respects he was called *Consul major*, & *Consul prior*. The reason why each *Consul* had not twelve *Lictors* alwaies, was because the tyranny of the *Consuls* might then seem to be doubled and to exceed the tyranny of the Kings. Another token was a certain chaire of estate called *Sella eburnea*, that is, an Ivory chaire, so called from the matter whereof it was made; & <sup>b</sup> because this chaire was commonly carried about in a certain coach or chariot, wherein the Consul did ride, hence from *Curru* which signifieth a Chariot, it is also called *Sella curulis*; where <sup>i</sup> note that the word *Curulis* is sometimes used substantively, and then it signifieth some chiefe magistracy or office among the *Romans*. The gown, by which they were distinguished from other Magistrates or private men, was a certain purple gown which from the great embroadred works was called *Trabea*, & he that did weare it was thence called *Trabeatus*, according to that, *Trabeatus cura Quirini*. It will be worth the observation to note, that the *Romans* did date their Deeds & Charters in old time, by naming the yeare wherein their City was first founded; as to say *Ab urbe condita* the twentieth, thirtieth, or fortieth yeare, &c. But in proesse of time their maner of dating was by subscribing the names of their present Consuls: as to say, such a thing was determined *L. Valerio, M. Horatio Consulibus*, such & such being Consuls: Whence *Suetonius* speaking of *Julius Caesar*, saith hee was appointed

f Alex. Gen.  
dier. l. 3 c. 8.

\* Cael Rhod.  
lib. 12. c.

g Feneft de  
magist. Rom.

b A. Gel l. 3.  
c. 18.

i Stadius in  
Flor. l. 1. c. 7.



appointed to be *Flamen Dialis*, *sequentibus consulibus*, that is, the next yeare following. Yea this was so common a date that to know the age of their wines they signed their vessels with the names of their Consuls, adding withall that they might know the goodnesse of their wine, the name of the country whence it came, according to that of *Iuven.* sat. 5.

*Cujus patriam, titulumq. senectus*

*Delevit multâ veteris fuligine testa. Turn. ad vl. l. c. i.*

Those alone who had borne the office of a Consul, not every one that was capable thereof, were said to be *Viri consulares*.

At the first those who were created Consuls remained in their office the space of an whole yeare, being *designati ad consulatum* upon the twentieth fourth of Octob.<sup>1</sup> *Ad consulatum non inierant ante Calend. Ian.* that is the first of Iannary. The reason of this chasme, or *interim*, between their designation unto their office, & their entrie into it, was (as we may probably conject) that the competitours might have some time to enquire *de Ambitu*, that is, whether there was no indirect and unlawfull meanes used in their canvassing. In proesse of time either by voluntary resignation, or deposition, or death, many Consuls have been chosen in the same yeare, and they were called *Non ordinarii*, & *suffecti Consules*. At such times all their deeds were dated by the names of the two first Consuls which began the yeare: whence those two first, and likewise all those that continued in their office the whole yeare were called *Consules Honorarii*, & *Consules Ordinarii*.

<sup>1</sup> Tistinus in

orat. Cic. pro

Caelio.

<sup>1</sup> P. Ramus in

orat. Cat. l.

<sup>m</sup> Fa. Syl. in

Cic. orat. pro

Muræ.

<sup>2</sup> Rosin. antiq.

Rom. l. 7. c. 9.

## C A P. 5.

### De Censoribus.

THE Consuls finding themselves encombred with so many businesses of a different nature, did by consent of the Senate choose two peculiar Officers called *Censores*.

<sup>o</sup> Feneft. de

mag. Rom.

c. 17.



*a censendo*; because they cessed and valued every mans estate, registering their names, and placing them in a fit century. For it did concern the Romans to know the number, and likewise the wealth of the people, to the end they might be informed of their own strength, & so shape their course accordingly, either in undertaking warres, transplanting Colonies, or in making provision of victuals in time of peace. A second and main part of their office was in reforming manners, to which end they had power to enquire into every mans life. This part of their authority was noted out unto us by this phrase, being called *Virgula censoria*. If any one had plaid the ill husband, & neglected his farme, or left his vine untrimmed, the *Censors* took notice thereof. They did *Senatu & Tribu movere*, .i. they did dispose Senators and pull down men from a more honourable tribe, to a lesse honourable. *Diminutio maxima* was the losse of ones Tribe, city and freedome. These *Censors* were reputed of the best ranke of Magistrates in Rome: they remained in their office an whole five yeares space ordinarily: I say ordinarily, because through the abuse of their place, the office had been made sometimes annuall. That five yeares space the Romans did call *Lustrum*, because they did once in every five yeares revolution *Lustrare exercitum Romanum*, by sacrifice purge the Roman army. Hence we say *duo lustra*, 10. yeares *tria lustra*, 15. yeares, &c. The performance of this *Lustration* belóged also unto the *Censors*: for after the *Censors* had performed the one part of their office, in registering the just valuation of every citizens estate, they did lead a Sow, a Ram & a Bull, three times about the army, & in the end sacrificed them to *Mars*: & thus to purge an army, is, *condere Lustrum*; though sometimes *condere Lustrum* doth signifie, to muster an army. These sacrifices, as likewise all others of the like nature, that is, wherein there was a Sow, a Ramme, & a Bull sacrificed, were termed sometimes "*Suo vetanralia*, sometimes *Solitanralia*, sometimes "*Taurilia*. Moreover

it

¶ Feneft. de  
Rom. Magift.  
cap 7.  
f Pomp. Læt.  
de Rom. mag.  
c. de Cenfor.

¶ Pancirol. lib.  
reum deperd.  
c. de cibi capi-  
endi modo.  
u Alex. Gén.  
dier. l 5. c. 27.  
x Pomp. Læt.  
de mag. Rom.  
c. de Cenfor.



it did belong unto these *Censors* to farme out the tributes, y *Panciroli*,  
 imposts, tollage, &c. At the five yeares end, the acts of both rer. depend. c.  
 their *Censors* were registred upon books of record, which de cibi capi-  
 records were laid up in a certain religious house dedicated endi modo.  
 to the *Nymphs*: Whence *Cicero* speaking of *Clodius* faith, & Cic. pro  
*Qui edem Nympharum incendit, ut memoriam publicam in-* Midone.  
*censis tabulis publicis impressam aboleret.*

## CAP. 6.

## De Pratoribus.

**T**He *Consuls* by reason of their many troubles in warre,  
 having no time to administer justice unto the Roman  
 people, did for the better help therein, create two new Of-  
 ficers for the executing of justice; the one to examine and  
 judge of matters within the City, between Citizen & Ci-  
 tizen: the other to decide controversies between forreiners:  
 The first they called *Pratorem urbanum*, and *Pratorem* a *Pighius* x-  
*majorem*; the other *Pratorem peregrinum*, & *Pratorem mi-* quipet, comp.  
*norem*: we may english them Lord-chiefe-Justice. Where  
 we must note that at the first there was only the *Prator ur-*  
*banum*, untill the cases and suits in law became so many, that  
 one was not sufficient to heare them all, b yea at last the num- b Alex, Gen,  
 ber of the *Prators* came to 16: namely, when those two dier, l. 2. c. 15.  
 were added for the providing of corne and graine: whence  
 they were called *Pratores cereales*; c nay there were at last  
 eighteen *Prators*, there being two others added to judge of  
 controversies touching feofments of trust, called thence *Pre-*  
*tores fidei commissarii*. d *Causarū duo genera sunt, alia priva-*  
*te, alia publica, has criminosas, illas civiles appellant.* In those  
 cases which were private, that is, e touching equity and up-  
 rightnesse of any act, or the restitution of any mony, or goods  
 unlawfully detained from the right owner, it belonged prin-  
 cipally unto the f two first *Prators* to judge, g bur under the  
 unto the *Centū viri*, who oftentimes are called by *Tully* Re-

e Feneft. de  
 mag. Rom. c.  
 19.

d Fr. Sylv. in  
 orat. pro Mur.  
 e l Saxonius  
 in Cic. orat.  
 pro S. Roscio.  
 f Rosin. antiq.  
 lib. 7. cap. 11.  
 g Saxonius  
 ibid.



*b* Fr. Sylv. in  
orat. pro Mur.

*j* Rosin. antiq.  
lib. 9. c. 18.

*k* Rosin. antiq.  
lib. 7. c. 11.

*l* Rosin. antiq.  
lib. 6. c. 18.

*m* Sig. de jud.  
lib. 1. cap. 7.

*operatores*, & *Judices* *hastæ*; the court *Hastæcentum-viralis*; because one of the markes & speciall ensignes was a speare erected up in the place the court was kept. Those cases which were publike or criminall, as treason, murder, buying of voices in the canvassing of offices, &c. were called also *causæ capitales*, and *capitis dimicatio*, that is, *h* such cases wherein if the party accused had been found guilty he was *capite damnatus*: by which phrase we must not understand alwaies *Ultimum supplicium sed aliquando exilium*, *quo scilicet caput*, that is, *civis eximitur à civitate*. These cases at the first were heard by the Kings & Consuls; afterward by certain appointed thereunto by the people, being called from their inquisition *questores parricidii*. In continuance of time the examination & hearing of these publike cases was turned over unto certain Magistrates, who because they were to continue their office a full and entire yeare (whereas the others had their authority no longer then they late in judgement) were thence for distinction sake called *Prætores Quæstores*, and the cases were termed *Quæstiones perpetuæ*: *k* because in these cases there was one set forme of giving judgement perpetually to remain; whereas in those private or civil causes the *Prætor* did commonly every yeare change the forme of giving judgement by hanging up new edicts. *l* Here we must note that these *Quæstores Parricidarum*, otherwise called *Prætores Quæstores*, had not the examination of all publike cases, but sometimes upon extraordinary occasions either the Consuls, the Senate, or the people themselves would give judgement. Now as those former *Prætores* had a speare erected up, whereby their Court for private causes was known; so had these *Quæstores* a sword hanged out in token of their court. *m* *Prætorum insignia duo fuisse, hastæ, & gladius; illa ad jurisdictionem, hic ad quæstionem significandâ.* The officers which did attend these *Prætores* were *Scribæ*, i.e. certain Notaries much resembling the Clerkes of our *Assises*, their office being to write according as the *Prætores*



or chief Iustices had bid them, taking their name *à scribendo*. The second sort were called *Accensi ab acciando*, from summoning, because they were to summon men to their appearance. They much resembled our Bayliffes errant. The third sort were *Liftores*; of which before <sup>a</sup> The authority of the urbane *Prator* was so increased in time, yea his honour was such, that whatsoever he commanded, it had the name of *Ius honorarium*. <sup>o</sup> Others are of opinion, that onely the *Prators* edict was that *Ius honorarium*; <sup>p</sup> the *Prator Urbanus* being wont at the entrance into his office, to collect a set forme of administration of justice out of the former lawes and several edicts of former *Prators* according unto which hee would administer justice all the yeare following; and least the people might be ignorant of the contents thereof, hee caused it to be hangd up to the publick view. This forme of justice was termed *Edictum, ab edicendo, id est, à imperando*; because thereby he did command, or forbid something to bee done. Whence *Pellitarius* in the place now quoted doth translate *Consulum edicta*, Mandatory letters, that it might bee distinguished from other Magistrates edicts. It was commonly called *Pratoris edictum*. And as *Pighius* observeth in the place above quoted, it was called *edictum perpetuum*, not absolutely because the vertue thereof was perpetuall (for that expired together with the *Prators* office, and therefore *Tully* calleth it *legem annuam*;) but in respect of other edicts made in the middle of the yeare upon extraordinary and unexpected occasions, which latter sort of edicts <sup>f</sup> *Tully* calleth *peculiaris & nova edicta*. Afterward, *Salvius Iulianus* collected <sup>g</sup> an Edict out of all the old Edicts of the former *Prators*, wherein almost all the whole civill law was contained, and this was called properly *Edictum perpetuum*, because that all the *Prators* ever after did administer justice according to that edict, by the appointmēt of *Hadrianus* being then Emperour. The edict being given out, the administration of justice consisted in the use of one of these three words, *Do, Di-*

a Feneft. de Rom. magist. cap. 19.  
o P. Pellit. in Cic. orat. pro A. Cœcinnâ.  
p Pigh. Æq. pet. com.

g Pellit. in Cic. orat. pro A. Cœcinnâ.

f Cic. in Ver.

g Cic. in Ver.

i Sig. de jud. lib. 1. cap. 6.



u. I. Camerar.  
in Cic. orat.  
pro Flacco.

co & Addico, id est, *Dat actionem*, Dicitur ins, *Addicit tam res quam homines*. That is, he is said *Dare*, when he granteth out an action or writ against a man: *Dicere*, when hee passeth judgement on him; and *Addicere*, when he in the court doth see & allow the delivery of the thing or the person on which judgement is passed. The forme of Addition was thus: After judgement had been pronounced in the Court, the party which prevailed, laid his hand on the thing or the person, against which sentence was pronounced using this forme of words, *Hunc ego hominem, sive hanc rem, ex iure Quiritium meam esse dico*. Then immediatly did the L. chief Iustice *Addicere*, that is, approve the challenge, & grant a present possession. *Ant. in Fast. lib.* For explanation whereof wee must know, that this word *Addico*, is sometimes *verbum Augurale*, sometimes *Forense*, sometimes a tearm of art belonging unto the discipline of the *Augures*, and so the birds are said *Addicere*, when they shew some good and lucky token, that the matter consulted about is approved by the Gods, the opposite hereunto is *Addicere*. Sometimes this verb *Addico* is a tearme of law signifying as much as to deliver up into ones hands, or into ones possession: whence we doe not only call those goods that are delivered by the *Prator* unto the right owner *bona addicta*; but those debtors also which are delivered up by the *Prator* unto their creditors to work out their debt, are tearmed *servi Addicti*: yea moreover because in all port-sales it was necessary that the *Prator* should *Addicere bona* deliver up the goods sold, hence doth this word often signify to sell, as *Addicere sanguinem alicuius*, to take mony to kill a man, to sell a mans life touching the reason of their name, they were called *Pratores à praeundo, quoniam iure praebant*. And y those alone were properly tearmed *virī pratorii*, which had borne this office, not they which were capable thereof: in the same sense we say *Virī censorii*, and *Virī Aedilii*, &c.

α M. Toxita  
in orat. pro  
Pub. Quint.

γ Pr. Ma-  
rantius in  
Philip. 13.



CAP. 7.

*De Imperatoribus, Caesaribus,  
sive Augustis.*

**V**Hen C. *Julius Caesar* had overcome *Pompey* his  
sonnes in *Spain*, at his returne to *Rome* the Se-  
nate welcomed him with new invented titles of singular  
honour, stiling him *Pater patria*, *Consul in decennium*, *Di-*  
*Etator in perpetuum*, *Sacrosanctus*, and *Imperator*: all which  
titles were afterward conferred upon *Octavius Caesar*, and  
all the Emperours succeeding desired to be called *Impera-*  
*tores & Caesares* from him. Where we must understand that  
this name *Imperator* was not altogether unknowne before,  
for by that name the *Roman* souldiers were wont (even at  
that time) to salute their L. Generall after some speci-  
all conquest. \* these *Roman* Emperours were afterward  
called also *Augusti* from *Octavius Caesar*, whom when the  
Senate studied to honour with some noble title, some were  
of the mind that he should be called *Romulus*, because hee  
was in a manner a second founder of the city; but it was at  
length decreed by the advise of *Manurim Plancus*, that he  
should be stiled by the name of *Augustus*, which we may  
english soveraigne: and they counted this name of more re-  
verence and majesty then that former name of *Romulus*, be-  
cause all consecrated and hallowed places were called *Loci*  
*Augusti*. The authority of these Emperours was very great,  
even as great as the Kings in former times.

7 Ser. Aen.  
lib. 6.



## CAP. 8.

*De principibus iuventutis, Caesaribus, & nobilissimis Caesaribus.*

<sup>a</sup> Roññ. ant.  
lib. 7. cap. 3.

**A**<sup>a</sup> Custom was received amongst the *Roman* Emperours in their life-time to nominate him whom they would have to succeed them in their Empire; and him they called *Princeps iuventutis, Caesar, & Nobilissimus Caesar*. The like custome was practised by *Charles* the fifth Emperour of *Germany*, and so hath been continued by his successors; namely, that one should be chosen whom they called *Rex Romanorum*, who should be so farre invested in the title to the Empire by the meanes of the present Emperour, that upon the death, resignation, or deposition of the then being Emperour, he immediatly should succeed.

## CAP. 9.

*De Praefecto urbis.*

<sup>b</sup> Despauterius in sua syn-taxi.

**R***omulus* for the better government of the Citty appointed a certaine officer called *Urbis praefectus*, to have the hearing of all matters or causes betweene the master and the servant, between Orphanes and their overseers, betweene the buyer and the seller, &c. Afterward in time of the *Roman* Emperours, this *Urbis praefectus* did assume unto himselfe such authority, that hee wold examine and have the hearing of all causes of what nature soever, if they were *Intra centesimum lapidē* within an hundred miles of *Rome*: (for <sup>b</sup> *Lapis* in old time signified a mile, because at every miles end a great stone in manner of a mark-stone was erected) in the absence of the King or Consuls, he had all authority which belonged unto them resigned unto him. I am  
not



not ignorant, that some doe make this latter kind of Prefecture, or Lieutenants<sup>hip</sup>, a different office from the former; but I should rather think them to be one, and the same, only his authority to be more enlarged in the Kings absence, and of this opinion doe I finde *Fenestella*, *Alexand. Neopl.* and *Sigonius*.

e Sig. de jur.  
Rom. lib. 1.  
cap. 20.

C A P. IO.

*De decem-viris legibus scribendis.*

FOR the better administration of justice, the <sup>d</sup> Romans <sup>d</sup> *Fenest.* de appointed three men, namely, <sup>e</sup> *Sp. Posthumius, Ser. Sulpitius, A. Manlius*, to goe to *Athens*, and other *Grecian* cities, there to peruse the *Grecian* lawes: to the intent that at their return, both a supply might be made of those lawes that were wanting in *Rome*, and the other which were faulty, might thereby be rectified and amended. At the returne of those three men, the Consuls were deposed, and both their authority and ensignes given unto <sup>b</sup> ten men newly elected for the government of the state and were thence called *Decemviri*. The first elected into this *Decemvirat*, were, *Ap. Claudius, T. Genutius, P. Sextus, Sp. Veturius, C. Iulius, A. Manlius, Ser. Sulpitius, P. Curatius, T. Romul, Sp. Posthumius*: all of them such as had born the office of a *Consul*. The laws which they brought from *Athens* were written at first in ten tables of brasse: afterward two other tables were added, at which time those lawes began to be knowne and distinguished from others by the name of *Leges 12 tabularum*. And according to those laws justice ever after was administered to the *Roman* people: at first by these ten men appointed thereunto, whose authority was as large even as the Kings and Consuls in old time, only it was annuall, one of them only had the ensignes of honor carried before him; one alone had the authority of convocating the Senate, con-

f *Lipl. Regi*  
*Leg.*



*Rosin. ant.  
Rom. lib. 7.  
cap. 19.*

firming these decrees, and the discharge of all state-businesses. The other did little differ from private men in their habit, only when the first had ruled a set time, the others succeeded by turnes. This kind of government did not continue long in *Rome*, for in the third yeare all their power was abrogated, because of their tyranny and oppression used by them towards the *Roman* people.

## CAP. II.

*De Interregia potestate.*

*Dion. Halic. lib. 2.*

*Rosin. lib. 6.  
cap. 16.*

*Alex. Gen. dier. lib. 5 c. 6.*

**A**fter the death of *Romulus* & the Senators divided themselves into severall companies called *Decurie*, committing the government of the kingdome to that *Decury*, that is to those ten men, upon whom the lot fell, calling them the *Interreges*: where we must know, that these ten did not rule altogether, but each man ruled for the space of five dayes, whence *Rosinus* calleth this magistracy *Magistratum Quinqueduanum*. After that five dayes government had passed through the first, then did they goe to lots to have a second *Decury* chosen, and so a third, &c. This of an *Interrex* remained even in the Consuls time, so that if by some extraordinary occasion the Consuls could not be created,<sup>h</sup> then they chose one, to whom alone they committed the whole government of the kingdome, and him they called *Interregem*.

## CAP. 13.

*De Dictatore.*

**V**hensoever the *Romans* found themselves encumbered with dangerous warres, or any other eminent dangers, they presently chose a *Dictator*



to whom alone was committed the authority and rule of the whole kingdom, differing from a king onely in respect of his name, and the continuance of his office. Touching his name he was so called, *quoniam dictis eius parebat populus*. His office continued but six months, and at the expiration thereof, if need required, he was chosen again for another six months. He was also called *Populi Magister*, in as much as none could make their appeal from him unto the people. As soon as himselfe was established in his office, he chose a subordinate officer, whom he called *Equitum Magister*: his authority much resembled his, whom they called *Urbi Praefectum*: for as the *Praefectus urbis* in the absence of the King, so this *Magister Equitum* in absence of the *Dictator* had full and uncontrolable authority of doing what he would.

*Pighius in  
Tiran.*

*Stadius in  
Flor. lib. 1.  
cap. 11.*

## CAP. 13.

De *Tribunis militum*.

THESE military *Tribunes* were of two sorts: The one had all power and authority, which belonged unto the Consuls; and thence were called *Tribuni militum consulari potestate*. The occasion of them was this: The protector of the commons called *Tribuni plebis*, did earnestly labour that the commonalty might bee made as capable of the Consular dignity as the Nobility: This was followed so hot, that in the end though the Nobility would not grant them way unto that dignity under the name of *Consuls*, yet in effect they would grant it them. Namely the *Consuls* should be deposed, & in their stead other Magistrates should be chosen; part out of the Nobility, part out of the commonalty, who though they were not called *Consuls*, but *Tribuni*, yet were they of Consular authority: by which they were distinguished from the other sort of Military *Tribunes*, who had power and authority only in matters Military, and were knowne

*Rosin. ant.  
lib. 7. cap. 30.*



known by the name of *Tribuni militum* without any addition.<sup>a</sup> Sometimes there was one of these three words prefixed, *Rutuli* or *Rufuli*, *Suffecti* and *comitiati*; not there by to intimate unto us any distinction of office or place, but to signify their manner of election. For if they were chosen by the *Consuls*, then were they called *Tribuni Rutuli*, or *Rufuli*, because they had their authority confirmed unto them by vertue of an act of law preferred by *Rutilius Rufus*, when he was *Consul*. If they were chosen by the souldiers themselves in their camp, then were they called *Tribuni Suffecti*, that is, *Tribunes* substituted or put in the place of another. Whence we may conject, that the souldiers were not permitted to make any election, but in time of need, when their former *Tribunes* were taken from them by some violent or unnaturall death. The last sort called *Comitiati*, were so called because they were chosen by the *Roman* assemblies called in latin *Comitia*. They were termed *Tribuni*, because at the first institution of them (whether we understand the *Consular Tribunes*, or this latter sort) there were but three of each. In proesse of time notwithstanding I finde the number not only of those *Consular Tribunes*,<sup>o</sup> but of those other also to have been increased to six, accordingly as the thousands in a legion were multiplyed. These latter sort of *Tribunes*, in respect of the military discipline, which was to see the souldiers being faulty to bee punished, wee may english knights *Partiall*: In respect that their authority was over foot-men only, we may english them *Seriant* *Patro*: only this difference there was, to every thousand of foot-men in any legion, there were as many military *Tribunes* under their chiefe commander called *Imperator*. But in our English armies there is but one *Seriant* *Patro*, who alone under the L. Generall hath command over all the foot-men, be there never so many thousands.

<sup>a</sup> Alex. Gen.  
dier. l. 6. c. 18.

<sup>o</sup> Rosin, ant.  
lib. 7. cap. 20.



## CAP. 15.

*De Triumviris Reipub. constituenda.*

**T**His tyranny of the *Triumviratus* began by a conspiracy between *Augustus Caesar*, *Antonius*, and *Lepidus*, For these three under the pretence of revenging *Iul. Caesar* his death obtained chiefe power and authority for the space of five yeares throughout Rome, pretending that they would settle the commonwealth, which at that time by reason of *Iul. Caesars* death was much out of order. Those five yeares being expired, they refused to resigne their authority, exercising excessive cruelty towards all the *Romans* of what degree soever. ¶ This kinde of government remained but ten yeares, neither ever were there any other then those three above named. They had power to enact any new law, to reverse any former Act, without the consent of the Senate or Commons. They might proscribe and banish any Roman at their pleasure, and as often as we read of *Triumviratu* simply without any adiunction, or of *Triumviratu Senatus legendi*, we are to understand it of this, though some upon unsure grounds doe disioyne them.

## CAP. 15.

*De Quaestoribus Aerarii.*

**T**HIS office of the *Quaestors* seemeth not unlike to a publique Treasurer's, which collecteth the subsidies, customes, mony, yearly revenewes, and all other payments belonging to any state or corporation. And hence *quoniam publica pecunia quarendae praepositi erant*, they took their name *Quaestores*: Sometimes they are called *Quaestores Urbani*, to distinguish them from the *Provinciall Quaestors*, which

p Fenest. de  
mag Rom.  
cap. 21.

q Soet. Octav.  
Aug. cap 27.

r Fenest. de  
Rom. magistr.  
cap. 3.



9 Sig. de jur.  
Rom. l. 2. c. 8.

which bare office in the *Roman* Provinces: sometimes they are called *Quaestores ararii*, to distinguish them from those that were called *Quaestores parricidii*, or *rerum capitalium*, of which you may see more in the tract de *Pretoribus*. Lastly they were called *Quaestores ararii*, to distinguish them from the *Tribuni ararii*, i. those Martiall treasurers, or Clerks of the band, which did receive the souldiers pay from these city-treasurers, and so pay it to the souldiers. The office of those city-Treasurers ( then being at first but two ) was to receive all the city accounts; to disburse at all occasions of publike expenses; to take an oath of him that the souldiers had saluted by the name of *Imperator*, that he had truely informed the Senate both of the number of enimies slaine, as also of the number of citizens lost: otherwise he might bar the Emperour of his triumph. Moreover whatsoever spoils were taken in war, they were delivered up unto these City *Quaestors*, and they selling them, laid up the money in the great Treasure-house called *Aedes Saturni*.

## CAP. 16.

De *Tribunis Plebis*.

9 Rolin. epit.  
scrup. Rom.

THE *Roman* Commonalty finding themselves oppressed by the wealthier sort, departed unto the *Aventina* Mount, threatening the *Roman* Nobility, that they would forsake the city, and never againe adventure themselves in war for the defence thereof, unless they did finde some release and easement from those excessive payments of use and interest unto their creditours: yea beside the remission of their present debts, before they would returne unto their City againe, they would have certaine Magistrates chosen, which should be *Sacro-sancti*, that is, such as might not be hurt or violently used, not so much as in word: and if any had violated that law, whereby they were made *Sacro-sancti*.

x Rolin. ant.  
l. 7. c. 25.



*sancti*, then was he accounted *homo sacer*; that is, an excommunicate person, or such an one whose soul should be vowed unto some God; insomuch that if any after had killed him, he should not be liable unto iudgement: *⁊ quoniam illius anima diis devota amplius humani commercii non sit*. To those Magistrats the protection of the commons was committed who because they were at first chosen out of the *Military Tribunes*, therefore did they alwaies retain the name of *Tribunes*, being called that they might be distinguished frō the others, *Tribuni plebis*, Protectors of the commons. At the first institution of them they were in number but two, as some have thought: others say five: afterward (as it is yeelded by all writers) they increated unto ten: Their authority at first consisted chiefly in this, that they had power to hinder any proceedings in the Senate, which they thought might prove prejudiciall unto the Commons, so that they had not authority to enact any new decrees, as afterward by abusing their authority they did. *b Sed eorum auctoritas magis in intercedendo quam iubendo*. And hence was it that in old time these protectors of the Commons were not permitted to come into the Senate: but they sate without at the dore, whither whatsoever was determined within the Senate was sent unto them to be perused by the, and if they did approve it, then did they subscribe a great Roman T. being the first letter of this word *Tribuni*. *d* The houses of these Tribunes stood open night and day, as a common refuge or place of succour for all that would come; neither was it lawfull for them to be absent out of the town one whole day throughout the yeare.

⁊ Alex. Gen. diem. l. 6. c. 14.  
Rofin. antiq. l. 7. c. 23.

⁊ Pighius in suo Tiranni fug.  
⁊ Pomp. L. 2.

⁊ Stadius in Flor. l. 3. c. 2.

⁊ Pigh. in suo Tiranni fug.

⁊ Rofin. ant. Rom. l. 7. c. 23.

⁊ Pigh. in suo Tirannifug.

C A P. 17.

De *Edilibus*, & *Præfecto annonæ*.

**VV**E may read of three sorts of Roman Magistrates called *Ediles*, the two first had their name ab  
Z 2 *edilibus*



f Pilet. in l.  
2. Cic. epist.  
fam. 10.

g Alex. Gen.  
dier. l. 4. c. 4.

h Alex. Gen.  
ibid.  
i Pighius. in  
suo tyrannif.

k Rosin. antiq.  
l. 7. c. 38.

*edibus curandis*, having in their charge to repaire both temples and private dwelling-houses which belonged unto the city. The first sort were called *Ediles curules*, à *sella curulis*, from the chaire of state, wherein it was permitted them to ride, and these were chosen out of the *Senators*. The second sort were called *Ediles plebei*, and they were added unto the former at the earnest suit of the Commons, they being to be chosen out of them. Where we must note that they were not so added, that both sorts should rule at one & the selfe same time, & but that the *Curules* should rule the one year, and the *Plebei* the other. To these *Ediles* it did belong, besides the reparations of Temples & private houses, to look unto the weights and measures in common sale: for they had power to examin *Actiones redhibitorias*, that is, such actions, by vertue of which he that had sold any corrupt or sophisticated wares, was constrained to take them againe. Moreover they had the charge of the publike conduit or water-conveiances, of provision for solcmne plaies, &c. Of the third sort there were also two, who were in a manner Clarkes of the market: <sup>h</sup> For unto them belonged the looking unto the victuals sold in the market, and cornes. Whence they were called by them *Ediles cereales*, and <sup>i</sup> by the Greeks ἀγορευσις. This office, for ought that can be collected out of those that treat of it, differeth but litle from his, whom the Romans called *Annone prefectum*, only this, the *Ediles Cereales* were *Magistratus ordinarii*, the *Prefectus*, *extraordinarius*, namely, <sup>k</sup> such as was chosen only in time of extraordinary dearths: he having for that time larger authority then those ordinary clarkes of the market. For as it appeareth by *Rosinus* in the place now quoted, this *Prefectus* had power of himselfe to examine all such cases or questions as should arise touching the dearth: as suppose the hoarding of corne, fore-stalling the market, &c.



## CAP. 18.

## De Triumviris.

BESIDE that *Triumviratus Reip. constituenda*, of which we spake before, there were divers kindes of *Triumviratus*, namely *Triumviri capitales*; three high Sheriffs, who had the charge of prisons, and were to see malefactors punished. For which purpose eight *Lictors* did attend the. There were also *Triumviri Minarii*, three men, wee may terme them Bankers, who had authority to pay out of the common Treasurie poore mens debts. Sometimes there were appointed five to this office, whence they were called also *Quinq. viri Mensarii*, both being called *Mensarii* from *Mensa*, a table, whereon they told their mony. Another sort of *Triumviri* there were appointed to presse souldiers, whence they were called *Triumviri conquestendi juvenes idoneos ad arma ferenda*. Wee read also of certaine *Triumviri*, which were elected as chiefe captaines to guid and conduct the people in transplanting Colonies, & thence were they named *Triumviri colonia deducenda*; but sometimes for this purpose they elected seven ten, or twenty, & so named them *Quinq. viri*, *Septemviri*, *Decemviri*, & *Vigintiviri Colonia deducenda*. Three other sorts of *Triumviri* remain, which were officers of small account, as the *Triumviri monetales*, three Masters of the Mint, who thence were called *Triumviri*, *A. A. E. F. F.* that *Auro*, *Argento*, *Are*, *Flando*, *Ferundo*, for they had the charge of coining the mony. Secondly, *Triumviri valetudinis*, Three Pest-men, which were to oversee those that lay infected with any contagious sicknesse. Thirdly, *Triumviri nocturni*, three Bell-men which were to walk the town at night, and to give notice of fire.

l Alex. Gen.  
dier. l. 3. c. 16.

m I. Camerar.  
in orat. Cic.  
pro Flacco.

n Alex. Gen.  
dier. l. 3. c. 16.



## CAP. 19.

*De Prasectis Aerarii.*

**A**ugustus Caesar desiring for the better safety of the City, to maintain many bands of souldiers, which should alwaies be in readinesse for the defence of the City, desired of the City a yearely subsidie for the maintenance of those souldiers: but being denied it, hee built a certaine Treasure-house, which he called *Aerarium militare*, where into he cast his mony for himselfe, and *Tiberius*; and promised to doe so every yeare. Afterward when he saw the Treasury not to be enriched enough, either by that money which himselfe bestowed, or by the contributions of others he appointed that the twentieth part of all inheritances and legacies (except it were to the next of the kinne, or to the poore) should fall unto this Treasury. For the charge and custody hereof he appointed three of those souldiers which alwaies attended about him for the safegard of his person, calling them *Prasectos Aerarii*.

## CAP. 20.

*De Prasecto Pratorio.*

**A**LL Captaines and Governours to whom the rule of any army belonged, were in ancient time called *Pratores*: This word *Prator* signifying then three chiefe officers among the Romans: first a Consul, secondly, a L. chiefe-Justice, thirdly, a L. Generall in war; all of them being called *Pratores*, *quasi Praitores*, *quoniam jure & exercitu praebant*. Answerable to which threefold exception, this word *Pratorium* hath three severall significations: sometimes it signifieth a Princes place or manour-house, some-  
times

oPanciroli, in  
notitiarum im-  
per. orient. c. 5.  
p. 181. in  
Aequipe,  
compol.



times a great hall or place where judgement was wont to be given; & lastly the L. Generall his pavilion in the camp, from which last signification it is, that those souldiers that give attendance about that pavilion for the gard of their Captaines person, are sometimes called *Milites Pratoriani*, sometimes *Cohors pratoria*: and he to whom the oversight of the souldiers was committed was thence called *Pratorio praefectus*.

Alconius in  
Verrinam.

Fr. Sylv. in  
Cacl. 2.

## CAP. 21.

*De Advocato fisci.*

FOR the right understanding of this office, we must first note a difference between these two words, *Aerarium* and *Fiscus*, *Aerarium* was a common Treasury belonging unto an whole state or corporation, whence all publike and common expences are to be supplied. *Fiscus* was the Kings or Emperours private coffers: it may bee englished the Kings Exchequer. The keeper thereof was called *Advocatus Fisci*. There are many other petty offices within the city, which I have purposely omitted, because there is but seldom mention of them in old authors, and as often as they are mentioned, their names doe explaine their office.

## CAP. 22.

*De principis Magistratibus provincialibus.*

OVER the Provinces at first ruled certaine Magistrates sent from *Rome*, by commission from the Roman Senate, called *Pratores*, whose office was to administer justice unto the Provinciaall inhabitants, yea and if occasion served, to make war also upon their enimie, and this was the reason that the number of the *Prators* did so increase  
always



alwaies, namely accordingly as the number of Provinces did increase. The wars and tumults in the Provinces sometimes were so great, that the *Prator* was not sufficient both to manage war & execute iustice: whereupon the Senate thought fit to send another magistrate into the Provinces, who they called a *Consul*, because properly the managing of war belonged unto the *Consul*, so that there were at first two ordinary Provinciall Magistrates, a *Consul* to manage war, and a *Prator*, or L. chiefe-justice to sit in judgement. And if these two by a second grant from the Senate did continue in their office above the space of a yeare, then were they called *Proconsules*, & *Propratores*. But in proesse of time this custome was altered. For then none could be *Proconsuls*, but those alone who had been *Consuls* in *Rome*: neither could any bee *Proprators*, which had not been *Prators* at *Rome*. Their manner being, that the next year after the expiratio of their offices in *Rome*, they should depart into some certaine Province, to beare the same offices again, being not called *Cōsules* or *Pratores* as before, but <sup>f</sup> *Proconsules* & *Propratores*; & for this cause alwaies so soon as the *Consuls* had been created, the Senate did appoint certain Provinces for the *Consuls* which being appointed, the *Consuls* did either agree between themselves, who should goe to the one, who to the other, & that was termed *comparare provincias*; or else they did decide the question by lots, and that was termed *sortiri provincias*: howbeit, sometimes the Senate did interpose their authority, and dispose the same. Vnder the Emperours the governours of some Provinces were appointed by the Senate, & the people, & those were called *Proconsules*, and the Provinces, <sup>t</sup> *Provincia Consulares*: others were appointed by the Emperours, and they were called *Propratores*, & the Provinces *Pratoria Provincia*. For all this, which hath been noted touching the Provinciall Magistrates, it is almost *verbatim* translated out of <sup>n</sup> *Rosinus*. To which wee adde this, namely that every *Proconsul* and *Proprator* did usually

f Alex. Gen.  
dier. 13. c. 3.

# Camerar.  
pro L. Flacco.

# Rosin ant.  
l. 10. c. 24.



usuall y choose a Lievetenant such a one as should be assistant x Pomp. l. x. r.  
 unto him in matters of government; whom they called *Legatus* de mag. Rom.  
*gatum*: so that this word *Legatus* signifieth three severall  
 Magistrates amongst the *Romans*, two whereof may be pro-  
 ved out of *Sigonius*: first that it signified such a Lievetenant, y Sig. de jure  
 or L. Deputy under a *Proconsul*, or *Proprator* in a province; prov. l. 2. c. 2.  
 secondly, that it signified such a one as is employed in the de-  
 livery of a message or embassage from one Prince or State to  
 another, we commonly call them *Embassadors*. Lastly it  
 signified a Lievetenant or chief Captain in war, whose place  
 was next under the L. Generall. His office at the first in-  
 stitution was not so much to rule or command, as to assist the  
 L. Generall in counsell; whence *Polybius* commonly joy-  
 neth these two together, *προσβουτῆς καὶ συνέβουτῆς*, that is, *Legato-  
 tos & Consiliarios*, that the latter word might expound the  
 former. *Lips. de mil. Rom. l. 2. dial. 11*. Moreover every *Pro-  
 consul* and *Proprator* had with them certain Treasurers cal-  
 led *Quaestores provinciales*: These provinciall Treasurers  
 were chosen by the *Roman* people commonly, namely such a  
 number as the number of provinces did require. After the  
 election, they between themselves did cast lots who should  
 goe unto the one, who unto the other provinces: b sometimes b Sigon. ibid.  
 extraordinarily by vertue of speciall act or decree, this or  
 that speciall man hath obtained his or that province without  
 any lottery. By the way we must note, that all Provinciall  
*Quaestors* could not be called *Proquaestors*, as all Provinciall  
*Consuls* and *Prators* were called *Proconsules* and *Proprato-  
 res*: c For these only were called *proquaestores*, which did suc-  
 ceed these provinciall *Quaestors*, when they did either die  
 in their office, or depart out of the Province, no successor be-  
 ing expected from *Rome*: at which times it was lawfull for  
 the *Proconsul* or *Proprator* to choose his *Proquaestor*. Moreo-  
 ver there were beside these *Legati & Quaestores*, d other mi-  
 litary officers, such as are the *Tribuni militum*, *Centuriones*,  
*Præfetti*, *Decuriones*, together with other inferiour officers,  
 as their Secretaries, Bayliffs, Cryers, Serjants, and such like.





## LIB. 3. SECT. 3.

## Of the Roman Punishments.

## CAP. I.

*Supplicia, Multa, Lex Ateria, Tarpeia, Ego es  
unum ovem multam dico, &c.*

**T**ouching the military punishment, which belonged to military discipline, it shall bee treated of in it's proper place. Here only of the City discipline, and the usuall punishments exercised therein, which we may divide thus. Punishments publickly inflicted on malefactors are either *Pecuniary mults*, or *Corporall punishments*; the *Pecuniary mults* were of two sorts: either an appointed sum of money was required of the party guilty, & then it was called *Multa*: or his whole estate was seised on, and then it was termed a *Confiscation* of his goods. The *Mult* was twofold, the one termed *Multa suprema*, the other *Multa minima*. Of both these <sup>a</sup> *Gellius* writeth thus: *suprema multa erat duarum ovium, & triginta boum, pro copia scilicet boum, & penuria ovium sed cum ejusmodi multa pcceris, armentis, a magistratibus dicta erat, adigebantur boves ovesq, alias pretij parvi, alias majoris, eaq, res faciebat inaequalem multa punitionem; idcirco postea lege Ateria constituitur*

<sup>a</sup> *Gellius*, lib.  
21.



*sunt in oves singulas aris deni, in boves aris centeni: Minima vero multa fuit ovium unius.* Moreover as he observeth in the same place, whensoever the Magistrate did set a fine or mulct upon the offenders head, he used the word *Ovis* in the Masculine gender, as *Ego ei unum ovem multum dico, &c.* The law which *Gellius* calleth *Ateriam legem*:<sup>b</sup> *Festus* q *Festus* in calleth *legem Tarpeiam*, because *Aterius* enacted it, when voce peculaz.  
he was Colleague or fellow-Consull with *Tarpeius*. Likewise wee may take notice of the clemency used in those times. It was provided by the law, that seeing there was greater plenty of Oxen then of sheep & to be fined an Ox, was not so much as to be fined a sheep, therefore the Magistrate pronouncing the fine *Bovem prius quam Ovem nominaret, ut innotesceret Romanis mitiores semper pœnas placuisse.* c P. in lib. 18.  
cap. 3. It. A-  
lex. ab Alex.  
lib. 3. cap. 5.

## CAP. 2.

*Capitis diminutio, maxima, media, minima. Aqua, & Igni interdicti. Proscriptio, Lata fuga, Deportatio, ἀπογραφή, ἐκκλησία, Ἐραρίη, In ararios relati, Religatio, Lanii cum tintinnabulis.*

THE corporall punishments are either such as were *Capital*, depriving a man of his life: or *Castigatory*, such corrections as served for the humbling and reforming of the offender, or for the destroying of him. *Capital* punishments were sometimes taken in a civill acception, for the losse of freedom, which the *Romans* called *capitis diminutionem*, *Disfranchising*, because in every free-man thus disfranchised, one head of the corporation was as it were cut off: sometimes it is taken for the losse of ones life, and this they called *Ultimum supplicium*. That disfranchising called *Capitis diminutio*, was<sup>d</sup> threefold, *Maxima, Media, & Minima.* d Rofin. ant. lib. 9. cap. 3.  
The least degree was, when the *Censors* pulled a man from



e Sig. de jure  
Rom. lib. 1.  
cap. 17.

f A Gel. noſt.  
Attic. l. 4. c. 17.

g Camerar. in  
orat. Cic. pro  
Murzen.  
h Cael. Rhod.  
lib. 1. cap. 17.

i Roſin. ant.  
lib. 9. cap. 12.

an higher Tribe, downe to a lower and leſſe honourable, or when by any cenſure they diſabled a man from ſuffraging, or giving his voyce in the publique aſſemblies: ſuch as were thus in the laſt manner puniſhed, were tearmed *Ararii*, and *In ararios relati*: *quia omnia alia jura civium Romanorum, praterquam tributū & aeris conſerendi amiſerunt*. This kind of puniſhment, as it may ſeem, was many times exerciſed for irreverend geſture, or ſpeeches uſed by ſuch as were queſtioned by the *Cenſors*. Three ſeverall examples are noted by *Gellius*; the laſt is this: *P. Scipio Naſcica, & M. Pōpilius* being *Cenſors*, taking a view of the *Roman* knights obſerved one of them to have a leane ſtarvling horſe, himſelfe being fat, and in good plight, whereupon they demanded the reaſon why his horſe was ſo lean, himſelfe being ſo fat: his anſwer was, *Quoniam ego, inquit, me curo; equum Statius meus ſervus*. *Diminutio media*, was an exilement out of the City, without the loſſe of ones freedome: It was commonly let down in this form of words: *Tibi aque & igni interdico*. And it ſeemeth by *h Caelius Rhodiginus*, to be all one with that kind of baniſhment, which the *Romans* called *proſcriptio*, though it cānot be denied, but that *Proſcriptus* ſome times ſignifieth only ſuch a one; whoſe goods are ſet at ſale to ſatiſfy his creditors, becauſe he will not appeare in the Court: the form thereof is thus, The creditors having obtained leave of the Lord chiefe-Juſtice to proceed in this manner, they cōmitted the ordering of the ſale to one principall Creditor, and he was called ſimply *Magiſter*, and he in the name of all the reſt ſolemnly proclaimed in the chief places of the city in forme as followeth, *i Ille debitor noſter in eiſmodi cauſa eſt, ut bona ejus divendi debeant, nos creditores patrimonium ejus diſtrahimus quicumq; emere volet, aſteſto*. But for the reconciling of both opinions, we may terme the firſt to be *Proſcriptionem hominum*: the other *Proſcriptionem bonorum*: w<sup>ch</sup> diſtinction being not obſerved, breedeth a great conſuſion in the Authours that treat of this puniſhment and becauſe



because both were performed by solemn and publique proclamations, hence the name *Interdictio* agreed as well to the goods confiscated, as to the persons banished: according to that, <sup>k</sup> *Quoniam eorum nomina in publico scribebantur, hinc* *proscribi dicebantur*. Hence the <sup>l</sup> *Grecians* used not only the word *ἀπολείπειν*, but also *ἐπιτίμειν*, to signify the act of *proscrip- tion*, because they wrote in a publique pillar the faults and offences of such as were thus banished. But to proceed without farther digression. *Diminutio maxima* was the losse both of the city, and the freedome; and this I take to be the same which in other times was called *Lata fuga*, or *Deportatio*, namely a perpetuall exilement: all standing in opposition to that other kind of banishment, called *Relegatio*, which was the exilement \* only for a season, happily for 5 yeares &c. see *C. Rhod. lib. 10. c. 5.* though I deny not but that *lata fuga* was so called not only in respect of the duration of time, it being a perpetuall banishment, but also in regard of the places so generally prohibited, <sup>n</sup> for he that was thus banished, was tyed and limited to one peculiar country, all other places in generall being forbidden him. Those punishments that deprived of life in ordinary use, and of which there is most frequent mention in *Roman* Authors, are these which follow. *Furca*, *crux*, *carcer*, *culeus*, *Equuleus*: *de rupe Tarpeia dejectio*, *Scala*, *Gemonia*, *Tunica*, *Damnatio in gladium*, *in ludum*, *ad bestias*: In generall we are to note, that the execution was without the gates of the city, to prevent the noysomnes which such abundance of blood might occasion, <sup>n</sup> for which reason the executioner dwelt without the city. Likewise those that were adjudged to death, when they went to the place of execution, a certain litle bell was tyed about the neck, that by the sound thereof, the people might beware of touching the condemned person, because the very touch of him was counted a kind of pollution: this <sup>o</sup> *Turnebus* observeth out of *Zonaras*: and from hence the executioners are called <sup>p</sup> *Lanistæ cum sintinnabulis*. And for this reason <sup>q</sup> it was, that a litle

<sup>k</sup> Fr. Matur. in Philip. orat. 5. <sup>l</sup> Suidas in voce ἐπιτίμειν.

\* Adde quod edictum quavis immitte minaxq; Attamen in poena nomine lene fuit; Quippe relegatus, non exul dicor in illo, Ovid de trist. lib. 2. E. leg. 1. <sup>m</sup> Tholofan. syntag. iur. univers. lib. 3. r. <sup>n</sup> Plaut. Cas. 2. 6.

<sup>o</sup> Turn. adv. lib. 11. c. 21. <sup>p</sup> Plaut. pseud. lib. 3. <sup>q</sup> Rosin. ant. lib. 10. c. 29.



† Tertul. Apo.  
log. cap. 33.

bell and scourge was hanged up in the hindmost part of the chariot, wherein the Lord generall did ride in his triumph, a publike officer which ridde with him in the same chariot, now and then plucking him behinde, and bidding him look back, using this forme of words, *Respice post te, hominem memento te*, that is, Sir look behind you, remember your selfe to be but a man. For the sight of the scourge and bell served to put him in mind, that notwithstanding his present triumph and acclamations, his after-miseries might be such, that he might be punished not only with whips, but even with death it selfe.

## CAP. 10.

*Furca, Furcifer, Supplicium more  
Majorum, sive sua.*

‡ Isidor. orig.  
lib. 10.

§ Plutarch. in  
Coriol.

¶ Epir. Livij.  
dec. 5. lib. 6.

**A**Ncient authours which doe write of the *Roman furca* doe rather mention it, then explain it, but if we diligently observe what they speake of it, we shall finde the use thereof to have been three-fold. The first ignominious, which <sup>a</sup> was when the master forced the servant for small offences *furcam circa urbem ferre*, to carry this *furca* upon his shoulders about the city, confessing his fault, and admonishing others to beware of the like offence, and <sup>b</sup> hence such a servant was afterward called *furcifer*; & here I think was use of those *stimuli* or goades, whereof I shall speake more in the chapter following; namely that when the party thus to be punished dragged back, and shewed himselfe unwillingly, then did the executioner prick him forward with these kinde of goades. The second sort was penall, when the party having the *furca* on his neck, was led up and downe the Cirque, or some publike place, and on the way to be whipt but not unto death, <sup>c</sup> thus *C. Marius damnatus sub furca diu Argis casus erat, & sestertio nūmo venit*. He was  
after-



afterward sold, and therefore died not under the punishment. The third sort was penall to, but in a higher degree; namely, when the malefactor having his head fastned to the *furca*, was whipt under it unto death; and this was by a peculiar name called <sup>d</sup> *supplicium more majorum*. This yet differed from that beheading with an axe, which was in use among the *Romans*; and called by the *Grecians* *πλάτυς*; from *πλάτυς* signifying an axe or hatchet; it differed I say from this, because howsoever there were in this *συνδεδεμένος*, a tying the party to a stake, or post, and also *μαστίγους*, a whipping, in both which it agreed with the former punishment; yet herein they differed, because in the former they were whipped to death, in the latter they were after their whipping beheaded with an axe, as appeareth by the execution of *Antigonus* the King of the Iewes. But to proceed in the description of the *furca*, the forme thereof I take to be like the beame of a wayne unto which the yoakes are fastned; it resembleth a forke, and the *furca* is called *ξύλον διπλῆν, διχρῆν, διδυμον*, id est, *lignum duplex, bicornutum, geminum*, in english a forked piece of timber; there is no such piece through the whole wayne, as the forme of wayne is in these times, but onely the beam thereof. <sup>e</sup> *Plutarch* treating of the *furca*, saith that it is *ξύλον ἀμάξης ὃ τὸ ῥυμὸν ὑποφέρει*, that is, a piece of timber about the wagon or wayne, wherewith they upheld the beame, and hee addeth, that what the *Grecians* call *ὑποσάτωρ* and *στέργμα*, the *Romans* call *furca*: now *Hesychius* describeth *στέργμα* to be *τὸ διχρῆν ὃ πρὸ ὑπομίσθας τοῦ τῆς ἀμάξης ζυγῶς*, that is, the forked piece of timber, which they put under the yoke of the wayne; correct *Plutarch* by *Hesychius*, and for *τὸν ῥυμὸν* read *τὸ ζυγόν* and you have in both, the description of the beame in the wayne. Some thinke that *Plutarch* compareth the *furca* to certaine forked pieces of timber, wherewith the wayne was upheld whiles it was unloaded, but how this can stand with *Hesychius* his description of *στέργμα*, I am yet to learn; not withstanding if we admit this interpretation, that

<sup>d</sup> Sueton. in Ner. 49.

<sup>e</sup> Dion. lib. 49.

<sup>f</sup> Plut. in Coriol.

which



which I would hence inferre, is rather confirmed, then any way weakened: namely that the form of the old *Roman furca* was forked; neither doe there appeare any testimonies so evident to me, as to perswade that among the ancient *Romans* any other was in use: True it is, that in after ages the form thereof was the very same with our Gallowses which are now in use, and this happily began, when the use of crucifying was interdicted, which interdiction we read first to have taken place in *Constantines* time.

g Sazom. Eccles. hist. lib. 1. cap. 8.

## CAP. 4.

*Cruce. Servile supplicium. Titulus.*

**C**RUCIFIXION hath been a punishment in ancient use among the *Romans*; it was abrogated by *Constantine*. It was a death that commonly servants were sentenced unto, seldome times free-men, whence it is many times noted out by the name of *servile supplicium* by *Tacitus*: yet<sup>h</sup> sometimes free-men, though of the baser sort, and for notorious offences were adjudged to this kind of death: nay a clear example hereof we have in that \* Guardian which *Galba* crucified, for poysoning his ward, for the Guardian calling for the benefit of the law, & avouching in his plea, *That he was a Roman citizen: Galba* as if he would allay his punishment with some comfort & honour, commanded the crosse already made to be changed, and another to be reared far higher then the ordinary, and the same laid over with a white colour. Those which were thus to be punished, they bore their crosse upon their shoulders to the place of execution. <sup>i</sup> *Ma-*  
*lesici cum ad supplicium educuntur, quisq. suam effert crucem.*  
<sup>k</sup> *Artemidorus* is as plain, εἶκοι ἡ δ' αὐτοῦ θανάτου καὶ ὁ μὲν ὡς περὶ πλάτους, περὶ πρὸς αὐτὸν καταΐζει, that is, The crosse is like unto death, and he which was to be crucified did first beare it. The party that suffered this kinde of death was first stripped

h Vid. Lipf. de cruce, lib. 1. cap. 11.  
\* Suet. Galb. 9.

i Plut de sera naminis vind.  
k Vid. Lipf. de cruce, l. 2. c. 5.



ped of all his cloathes, for he suffered <sup>1</sup> naked; then was hee fastned unto the crosse and that commonly with nailes, the Greek word *σταυρώσας* cleerely evinceth as much, wee way render it *Clavifixio*. Now that the equity of the proceeding might clearly appeare to the people, the cause of his punishment was written in capitall letters, hence <sup>m</sup> *Dio* speaketh <sup>m</sup> *Vid lip. de cruc. l. 2. c. 11.* of a servant drag'd to the crosse, *μετ' γεγραμμάτων τῶν αἰτίαν τῆς θανάτου αὐτοῦ δηλούντων*, that is, with letters declaring the cause of his death. This inscription was called *αἴτια*, *Matth. 27. 37.* It was also called *πίναξ*, *Iohn. 19. 19.* from the latin word *titulus* used in the same sense. And sometimes *ἐπιγεγραμμένη αἴτια*, *Mar. 15. 26.* or simply *ἐπιγραφή*, *Luc. 23. 38.* <sup>n</sup> *Tertullian* <sup>n</sup> *Apol. c. 11.* & <sup>o</sup> *Suetonius* calleth it *elogium*. The like kind of publishing the cause, either by an inscription, or by the voice of a common crier was not unusuall in other capitall punishments, as *Attalus* the Martyr was led about the Amphitheatre, *πίναξ αὐτῶν σταυρωτῶν, ἐν ᾗ ἐγγεγραμμένον ῥωμαῖσι, ὅτι ἐστὶν Ἀπάλδος ὁ χριστὸς*. <sup>p</sup> *Euseb. eccl. hist. lib. 5. c. 1.* A table being carried before, in which it was written in Latine, *This is Attalus the Christian*. That of <sup>q</sup> *Suetonius* is not much unlike, *Patrem familias detractum ἐς σπῆλαις in arenam, canibus objecit, cum hoc titulo, Impiè locutus Parmularius*. What is meant in this place by *Paterfamilias* & *Parmularius*, hath been already declared in the chapter of *Fen- ters*. Moreover such as were to be crucified, they were also whipt before they suffered. That same *horrendum carmen* cleerely evinceth as much; the parts whereof are two: First, *Verbera intra aut extra pomerium*: Secondly, *Arbore infelici suspendio*. This whipping was sometimes *sub furca*, for this <sup>†</sup> *Valerius* is plain, *Cum servum suum verberibus multatum sub furca ad supplicium egisset*: sometimes *ad columnam*. <sup>†</sup> *Valer. Max. l. 1. c. 7.* *Artemidorus* is cleare in this *αεὶ δεδεῖς κλονὶ πολλὰς ἔλαβε μάλας*, that is, being tied to the pillar, hee received many stripes. Happily <sup>f</sup> *Plautus* alludeth to the same, <sup>f</sup> *Plaut. Bacc.*

— *Abducite hunc.*

*¶ Intro atq; adstringite ad columnam fortiter.*

Bb

Yea



† Prudentius  
Hieronym.  
Beda vid. Lipt  
de cruce l. 2.  
c. 4.

x Plaut. Mil.  
2. 6.

x Plaut. Mosh.  
3. 1. 1.

\* Cael Rhod.  
lect. antiq. l.  
30. c. 5.

Yea the ancient *Fathers* say that our blessed Saviour was thus whipt: touching the place or manner the Scripture is silent, only that he was whipt it testifieth, & that with scourges. *Τὸν ἦτε ὁ Θεὸς ἁλλότως παρέδωκεν ἵνα ταυρωθῇ, Mat. 27. 26.* This fore-whipping I take to bee a matter unquestionable; but that they should be whipt on the way towards the place of execution, I much doubt, much more that they should be goaded on the way with pricks and goads by the executioner. That there was a *stimuleum supplicium*, a kinde of punishment with pricks and goades is evident, and hence cometh that phrase *Stimulo fodere*, and hence that other phrase kicking against the prickles: Parallell to which is that of *Plant. Truc. 4. 2. Stimulos pugnæ cadere*. But this kinde of punishment I take to have been exercised only by Masters towards civill servants, and that not as preparatory to death, but for their reformation in future times: whence by way of contempt, a servant thus handled was termed *Carnificium cribrum*, because he had his back so boared with those pricking instruments, that it looked like a sieve full of holes: Otherwise, if we understand it as a punishment imposed by publike authority, we may say, that thereby is denoted a certaine punishment, exercised towards theeves in time of their examination, that by the pricking and goading of them the truth might be confessed, \* for to that end theeves were thus tortured, and thence were they called *Centrones*, from *κεντρον Stimulus*. Lastly, wee must remember that these three words *Furca*, *Crux*, and *Patibulum*, are many times used promiscuously, signifying the whole crosse on which malefactors suffered, but in strict propriety of speech; *Furca* signifieth that forked instrument of which wee treated in the former Chapter: *Crux*, that erect part of the crosse standing upright: and *Patibulum*, the thwart piece of timber upon the top of the crosse: yet sometimes also *Patibulum* is taken for the Roman *Furca*, whence *Patibulum* and *Furcifer* are used as words æquivalent, and in both senses it may borrow its



its name from *Pateo* to lay open; because as the malefactors hands were spread abroad being fastned to the thwart piece of timber upon top of the crosse: so were they likewise spread abroad under the *Furca*, his two hands being tied to the two forked ends thereof.

## CAP. 5.

*Carcer, Ergastulum, Tullianum, Robur,  
Mala mansio, Nervus, Collum-  
bar, Numella, Codex.*

**H**OWsoever *Carcer* and *Ergastulum* are used promiscuously by modern writers, yet if wee diligently enquire into each words origination, and how they have beene used by more ancient Authors, wee shall finde them thus differenced: *Ergastulum* was a prison much resembling our house of Correction, into which servants only were cast: *Carcer* a more publique prison, unto which men of better rank and fashion upon iust occasion were committed. Secondly, the power of sentencing any servant to the *Ergastulum*, was proper and peculiar to the Master of the servant, without approbation from publique authority, but the power of committing to the prison called *Carcer*, was onely in the publique Magistrate: Thirdly, *Ergastulum* took away onely the liberty and pleasure of life: *Carcer* life it selfe. The word *carcer* hath his name *a coercendo*, from restraining men of their liberty. <sup>a</sup> It had two principall parts, the one called *Tullianum*, the other *Robur*: besides many other roomes wherein men were kept close prisoners, those two places were assigned for execution. In that which they called the *Tullianum* (we may english it *Dungeon*) they strangled malefactors. <sup>b</sup> It had its name from *servius Tullius* a Roman king the first inventer & author thereof. Of this *Salust* writeth, *Est locus in Carcere quod Tullianum appellatur, ubi paula-*

<sup>a</sup> Sig. de jud.  
lib. 3. c. 17.

<sup>b</sup> Sig. ibid.



*tim ascenderis ad lavam circiter duodecim pedes humi depre-*  
*sus cum muniant undiq; parietes, atq; insuper camera lapideis*  
*fornicibus inneta sed inculta tenebris odore fœda, atq; terribilis*  
*eius facies est.* In that other place which they called commo-  
 ly *Robur*, sometimes *c Robustus Codex*, sometimes *c Cysto-*  
*dia lignea*, sometimes *c Italum robur*, (our english phrase  
 strong hold fitly answereth it) they broke malefactors necks  
 by a kind of præcipation or tumbling them headlong *f*frō a  
 certain stock of a tree fastned there in the earth; unto this  
*Tully* alludeth, *Quaro fregeris ne in carcere cervices illi ipsi*  
*Vestio:* But more expressly *Plantus*, & *At ego faciam vos am-*  
*bos in robusto carcere ut pereatis*, Those that had the chiefe o-  
 versight in such executions were called *Triumviri capitales*,  
 that is high Sheriffs. The whole proceeding is set downe by  
*Valerius*, *h Mulierem damnatam Prator Triumviro necandā*  
*in carcere tradidit, quam receptam is qui custodia præerat, mi-*  
*sericordiā motus non protinus strangulavit; aditum etiam filia*  
*dedit, sed diligenter excussa, ne quid sibi inferret, existimans fu-*  
*turum, ut inediā consumeretur, cum vero animadvertisset fili-*  
*am matrem lactis sui præsidio sustentantem, rem ad Triumvi-*  
*rum, Triumvir ad Pratorem; Prator ad consilium judicium per-*  
*tulit, & remissionem mulieri impetravit.* It is much controver-  
 sed among interpreters, what that kinde of punishment was  
 which they termed *Malam mansionem*, wee may english it  
 little ease. Some understand hereby a certain deep dungeon,  
 made in the form of a pit or well, called therefore in Latine  
*puteus*, but this as it seemeth by that of *Plantus*, was a punish-  
 ment proper and peculiar to theevish Cookes: *i Coqui ab-*  
*stulerunt, comprehendite, vincite, verberate, in putem condite.*  
 Others understand hereby a close prison, which because of  
 its straightnesse & closenes they called *arcam*, a chest: the use  
 of this prison, was for the safe keeping of such who were af-  
 terward to be examined of farther matters; though some-  
 times other offenders were cast into the same. Of these pri-  
 sons *Tully* speaketh. *k Subiō abrepti in quaestionem; tamen se-*  
*parant*

*c* Plau. pœn.

3. 3.

*d* Plau. pœn.

5. 6.

*e* Hor. lib. 2.

ol. 13.

*f* Turneb. adv.

l. 23 c. 21.

*g* Plau. in cur.

c. act. 5. sc. 5.

*h* Valer. l. 5.

*i* Plau. Aulul.

2. 5.

*k* Cic. pro Mi-  
lone.



parantur à ceteris, & in arca conjiciuntur, ne quis cum his colloqui possit. Another kind of prison there was called *Sextritorium*, thus it is commonly rendred in Latine, but the Greek word is *σείσθηριον*, and accordingly <sup>a</sup>Turnebus renders it *Se-* <sup>a</sup>Turn. adv. 3 d. 18.  
*stertium*, being of opinion that it was so called from the quantity of ground it contained, namely two acres and a halfe: C. Rhodiginus thinketh that *Spoliarium* and *Sextritorium* were not places unlike, but herein not he alone, but divers others have been deceived: for *Sextritorium* is apparently a place of execution, where those were executed whom the Roman Emperours adjudged to death: now whether that *Spoliarium* <sup>b</sup>Plutarch. in Galba.  
 were a place of punishment I much doubt. What in Latine we call *Spoliarium*, that the Greeks termed *σπυλιον* both doe signify primarily litle cels or chambers neere adjoyning to the bath, where such as washed themselves laid up their cloathes: In a borrowed sense both are used to signify chambers and cells adjoyning neere unto the Amphitheatre or fencing place, wherein the fencers did put up their cloathes in time of fight, and because such as were wounded in fight were carried into those chambers, where they languishing with much pain, at last notwithstanding expired for the most part, & that not without much torturing of the Chyrurgion, hence such a spittle-house is also called *Spoliarium*. Thus much Seneca seemeth to intimate, <sup>c</sup>*Nunquid aliquem tam cupidum vita putat, ut jugulari in spoliario. quam in arena mallet?* Whereby it appeareth, that *Spoliarium* was not a prison, unto which malefactors were judged, but rather as I said a kinde of spittle-house. Other kinde of punishments, there were of a neer likeness with imprisonments, as casting into the pillory, laying one by the heeles, &c. Of these litle is spoken more then the very names; of this sort those that doe most comonly occur in authors, are these. *Nervus*, *Collubar*, *Numella*, *Codex*. *Nervus* is generally thought to resemble our stocks. <sup>d</sup>Some take it to be made of wood, others of yron, <sup>e</sup>*Nervum appellamus ferreum vinculum, quo pedes im-* <sup>d</sup>Vid. Taubman. in Plau. Aulul. 4. 10. <sup>e</sup>Fest. Vid. Lam. in Plau. Aulul. 4. 10.  
 Bb 3 *pediuntur*



*pediuntur: quanquam Plautus eo etiam vinciri cervices ait.* Two of the last seem to have some resemblance without Pillory: *Collumbar* had its name from *Collum*, because the neck was chiefly painted in this kinde of punishment. *Nutmella* was also a kinde of Pillory being so called *quasi Nutmella, quod qui eo vinculo constricti erant, nuere demissoq; capite esse cogebantur.* *Codex* was a certain block or Clog, so tied unto the Malefactors, that they used it as a stoole to sit on: the use of this may seeme to have been onely in private houses, thereby to keep evill servants the closer to their worke, of this *Juvenal* speaketh, *Sat. 2.*

Turneb. ad-  
verl. l. 23. c. 21

Turneb. ib.

*Horrida quale facit residens in codice pellex.* Turnebus describeth it thus, *Codex est ligneus stipes, quem allegati servi qui deliquerant trahebant, cusq; insidebant vincti.*

# CAP. 6.

## Culeus.

THE crime which in Latine we call *Parricidium*, is murder practised by Father or Mother towards the children or by the children towards either of the parents. It had in old times a larger exception, signifying any murder between man and man, and then it was called *Parricidium, quia par parem occiderat.* The word taken in his first and proper signification, denoted a fact so unnaturall, that neither *Solon* nor *Romulus* would determine any punishment against such offenders, because they thought none so wicked as to commit it, and the prohibition it selfe might prove a kinde of irritation to provoke some to the commission of the crime, which otherwise would never have entred into their hearts: but the wickednesse of the aftertimes, enforced Lawgivers to invent a sharp punishment against such unnaturall offences. The punishment decreed against Parricides in *Senecaes* age, was, that such malefactors should bee sowed up

p Cic. pro  
Sext. Roscio

q Senec. lib. 5.  
controv. 4. in  
fine.

in



in a leatherne sacke together with Serpents ; and so cast into the Sea; afterward there was sowd up in the same sack an Ape, and a Cocke, and at last a Dogge. Whence *Iuvenal Satyr. 8.*

*Cujus supplicio non debuit una parari  
Simia, nec serpens unus, nec culeus unus.*

▪ *Modestus* describeth the manner thereof thus : The Parricide being first whipt with rods untill the blood came, then was he sowd up in this sack called *Culeus*, together with a Dog, a Cock, a Serpent, and an Ape. <sup>b</sup> They would not cast him naked into the sea, least the water thereof thereby might be polluted, & herewith all other pollutions in their opinion, were expiated.

<sup>a</sup> Digest. lib. 48. ad legem Pomp. de par. sic. vid. Cael. Rhod. lib. 11. cap. 21.  
<sup>b</sup> Cic. pro Sext. Rosc.

C A P. 7.

*Eculeus, Lamina Vngula, Fidicula quous.*

**E** *Culeus* had its derivation from *Equus*, quasi *Equuleus*, as may be collected from that description which <sup>c</sup> *Turnebus* giveth: But not so much from the posture or situation of the offenders body on the engine as *Turnebus* would have it, for he in no wise resembled a man on horseback, but rather from the horning or hoisting up of the party fastned with ropes unto the *Equuleus*, so that his hands being tied fast at the upper part of the engine, and his feet at the neather part, hee was hoysed up in the ayre like unto one fastned on a crosse. The form of the *Equuleus* I conceive thus, It was non one entire stake, but rather two long peeces of timber ioyned together in form of a stake, ioyned together I say, by the meanes of a vice or scrue; and the reason hereof was that by help of this scrue, the upper part of the engine might be lifted up to the racking and torturing of the malefactor, or let down to the easing and remitting of his paines as should seem good to the executioner, or other Officers, who

<sup>c</sup> *Turneb.* ad- vers. 1. 4. c. 3.



who now and then would grant some remission and respite in hope of a confession. For in the first institution the maine end of this torture was to work out the knowledge of the truth. Neither did they alone rack the parties ioynts in this kind of punishment, but to enforce him unto a confession by an augmentation of his paine, they did often with hot plates and yron pinfers, burne and teare his flesh from his sides, and all this we shall finde warranted by <sup>d</sup> Sigonius, whose words I have written down at large, *Eculeus catasta fuit lignea, cochleata, ad intendendum ac remittendum apta, atq; ad torquendos homines ut facti veritas eliceretur instituta. Tormenti vero generat huiusmodi, ubi catasta huic brachia pedesq; eius, qui torquendus erat, nervis quibusdam, qua fidicula dicebantur alligaverant, tum catasta intentia atq; in altum erecta, ut ex eo quasi ex cruce quadam miser ille penderet, primum compagem ipsam ossium illius divellebant, deinde candentibus eiusdem corpori laminis admotis, atq; bisulcis angulis ferreis lateribus laniatis doloris acerbiteratem agebant.* And thus wee see what the use of those *Lamine* and *Vngula* were, namely that they were not severall torments of themselves, but adiuncts to this, to encrease the paine. The *Eculeus* was sometimes called *lignum tortorium*: sometimes *stipes noxialis*. The torturing engine called *Fidicula* was not much unlike: *Fides* signifieth the string of any muscicall instrument, & the engine had its name from the strings & cords wherewith men were tortured upon it; of this *Turnebus* writeth. *Fidicula qua in tormentis numerantur, mihi videntur lascivia quadam ioci nomen invenisse, quod ut in fidibus nervi item quoq; ut nervi hinc & inde multis funibus homines distendebantur.* The torment *genivis* used by the *Gracians*, was either this same or very like.

<sup>d</sup> Sig. de iud.  
l. 3. c. 18.

<sup>e</sup> Sozom. hist.  
Eccl. l. 5.  
<sup>f</sup> Prudent, in  
hymno Vin-  
cent Martyr.  
<sup>g</sup> Turneb. adv.  
l. 4. c. 3.



CAP. 8.

*De rupe Tarpeia deiectio. De lapide empti. A furca redempti. Scala Gemonia. Tunica. Dam-  
natio in gladium, in ludum,  
ad bestias.*

**M**alefactors for notorious offences were tumbled down headlong from a certain rock in the *Tarpeian Mount*: This kinde of punishment was called either simply *Deiectio à saxo*; or *Deiectio à Tarpeia rupe*. In some cases notwithstanding, by the intercession of friends, or some other meanes, pardons were sometimes obtained for the condemned persons, whereby they were freed from death, howsoever the disgrace and infamy cleaved ever after unto them, & therefore they were termed *de lapide empti*: which phrase <sup>h</sup> *Calius Rhodiginus* hath paralleld with that, *à furca redempti*, that is *saved from the gallows*. In the *Aventine Mount* was a place of like nature, called *Scala Gemonia*: certain staires whither condemned persons were dragged, and so cast headlong into the river *Tiber*. *Calius Rhodiginus* seemeth to be of another opinion: <sup>i</sup> who describing this punishment, <sup>h</sup> *Calius Rhodiginus* saith, that an hook was thrust into the malefactors throat, and so he haled by the Executioner unto these staires, where having his thighs brokē he was burnt. Furthermore he addeth, that they were called *Scala Gemonia*, or *gradus Gemonis*, because as some are of opinion, the first that suffered this kinde of punishment his name was *Gemonius*: or as others would have it, because it was *locus gemitus, & calamitatum*. If wee admit that malefactors were here burnt, then may we think this punishment *ad Scalas Gemonias* to be the same, which sometimes was called *Tunica*. The reason of which name was, because persons thus to be burned, were clad with a coat dawbed in the inside with pitch and brimstone. Thence



† Sen. ep. 14. is that of <sup>k</sup> Seneca, *Cogita illam tunicam alimentis igneam & illatam & intexam*. This giveth light to that of *Iuv, Sat. 8.*

*Tunicâ punire molestâ.*

† Tertul. ad Martyr.

† *Tertullian* also mentioneth it in this sense. To these may bee added two other punishments usually inflicted upon fugitive servants, but yet not so restrained unto them, as that they were not sometimes extended to other malefactors. The first is *Damnatio in gladium*, A condemning one into a fence-schoole, there to be trained up in the art of fencing; untill some publike prizes were plaid, at what time such a condemned person was to fight for his life. <sup>m</sup> *Capitolinus* calleth it *Ad gladii ludum deputacionem*: But *Vlpian*, 28 <sup>n</sup> *Lipsum* else-where observeth, differenceth these two phrases thus: Hee that was *ad gladium damnatus*, was either presently put to death, or else at farthest within the compasse of an yeare: but he that was *damnatus in ludum*, had not death so peremptorily senteced upon him; if he escaped the danger of those publike prizes, & alwaies got the upper hand of his adversaries, at three yeares end, he received the *Rudem*, or wand, which was a token of discharge from those bloody combats: yea at five yeares end, he received the *Pileum*, or cap, which was a token of his enfranchisement or freedom in the city. The second sort was *Damnatio ad bestias*, a condemning of a man to fight for his life with beasts, as with Beares, Leopards, Lions, &c. The persons thus condemned were termed. <sup>o</sup> *Bestiarii*. A memorable example thereof wee have in a certaine Roman servant called *Androclus*, <sup>p</sup> who having run from his master, lived in a wilderness, and whiles he rested himselfe in a den, there came a fierce Lion unto him, meaning & grieving because of a stump of a tree which stuck fast in his foot; *Androclus* at first began to be affrighted, but the Lion coming neerer and neerer unto him, and laying his foot on the mans lap, intimated his desire of help from him, which when the man perceived he plucked out the stump, and gave him what ease he could. Afterward this fugitive being apprehended

<sup>m</sup> Vid. Lipf. Satur. l. 2 c. 3  
<sup>n</sup> Lipf. Satur. l. 2 c. 23.

<sup>o</sup> Alex. ab Alex. l. 3. c. 5.  
<sup>p</sup> A. Gel l. 5. cap. 14.



hended and adſadged to this puniſhment, it hapned that this very Lion was brought into a ſhew- place for *Androclus* to fight with, where inſteed of a fierce onſet, the Lion uſed a tame and familiar fawning on him, whereupon the ſpectators admired; and underſtanding the former paſſages betweene *Androclus* and the Lion, they releaſed the ſervant and freed him from his puniſhment. Where wee muſt note that this pardon was extraordinary: ¶ for uſually if any ſo condemned happened to overthrow a beaſt or two yet was he not thereby diſcharged, but was to encounter with others untill hee were killed. Yea it was very ſeldome that the man could prevaile againſt the beaſt, on the contrary one Lion hath prevailed againſt two hundred men; according to that, \* *Præclaræ adilitas, unus leo ducenti beſtiariis*. By which we ſee many men one after another did thus fight with beaſts at the ſame meeting: yea the *Græci*ans, called ſuch as ſucceeded the firſt combatants *ἱεſπους*, the Apoſtle *S. Paul* calleth them *ἰσχυροί*, becauſe they were reſerved untill the laſt. <sup>a</sup> *Tertullian* readeth that place in this ſenſe, and the words themſelves enforce as much: for what ſhall we underſtand by *ἰσχυροί*, but the very ſpectacle or ſhew it ſelfe, and what by *ἀντιſτάς*, which ſignifieth properly *Oſtendit*, but an alluſion to him who was the chiefe author and exhibiter of theſe bloody ſpectacles unto the people. † *Lipſius* hath paralleled that phraſe of *Tully*, *Oſtendere munus*, with that of *Sæmonias*, *proponere munus*; both ſignifying the ſetting forth or beſtowing the fight of ſuch maſteries, and fightings. And that it was no unuſuall kinde of Martyrdome in times of the primitive Church, thus to expoſe holy men to the fury and rage of wild beaſts, appeareth by the example of *Ignatius*, who rejoyced to be grownd betweene the teeth of wild beaſts, that he might be found pure bread: Whoſe words were \* *Frumentum ſum Chriſti, & per dentes beſtiarum molor, ut mundus panis Dei inveniar*: yea the word *Enduatus*, *morri additos*, helpeth this interpretation: the word intimateth that there

H. Salmuth.  
in Pancirol. de  
veter. ludis.

Cic. in orat.  
pro Sallio.  
Suid in voce  
ἑπὶ ἱεſπ.  
1. Cor. 4. 9.  
u Tertul. l. de  
pudicit.

† Lipſ. Satur.  
lib. 2. cap. 13.

x Jæn. adv.  
hæc. l. 5. c. 28.  
It Euleb. hiſt.  
Ecl. 3. c. 33.



y Suet. Claud.  
c. 34.

z Senec. ep. 7

was a sure death remained for them also, though the last. The custome being in the morning to commit men with beasts, but those which remained till noonetide, and were therefore called *Meridiani*, were committed each against other, and that without any defensive weapons, with swords in one hand cutting, and with the other hand being empty, grasping and tearing each others flesh, so that *Seneca* speaking of this, comparing it with that former fighting with beasts, saith, *Quicquid ante pugnatum est, misericordia fuit.*

### CAP. 9.

*Ergastulum. Ergastula inscripta. Pistrinum. Damnari in Aniliam. Metallum. Inscripti. Stigmati. Literati. Virga. Flagella. Talio.*

THE state and condition of servants was various and differing among the *Romans* in old time, but of all they were most miserable who lived in prison. Whence those that were ordinarily employed in these prison services, they were either such servants as were bought for that purpose, or such as for notorious crimes were adjudged thereunto in way of punishment, whence the word *Ergastulum* is justly derived from the Greek *Εργαστήριον* because it is *πῶς ἐν τῷ δεσμῷ* *Εργαστήριον* locus in quo vincli operantur. For even in the day time when they were sent forth to work they had shackles and bolts about their legs to prevent their escapes or running away, though not so big as those into which they were cast at night when they returned into prison. Their fetters or bolts are oftentimes in ancient writers (peradventure from the forme of their links) termed *Annuli*, and themselves said to have *pedes Annulatos*. They had also their foreheads marked or burned with some letters of infamy, which is the reason of *Juvenals* *Epitneton*, *Inscripta Ergastula.*

*Quem*



*Quem viri adficiunt inscripta Ergastula.* The labours in which they were imployed, were, sometimes digging, delving, and tilling the ground: sometimes digging of quarry pits, sometimes grinding with an hand-mill, sometimes drawing water: this latter kinde of punishment in <sup>m</sup> *Suetonius* his phrase is *Anliam damnari*. Those Criticks who for the word *Anlia* doe substitute *Anticyra*, or *Andia*, or such like names of Ilands, doe utterly faile of the Authors scope, and drift, for the punishment which *Suetonius* speaketh of, is some strange or usuall punishment: now seeing that Senators themselves were often exiled, it could not seeme strange that *Roman* Knights should be banished into forreign lands; but this was a matter usuall, and unheard of, that a *Roman* Knight should be imployed in such drudgeries. Again the word *Anlia* fitly denoteth such a kinde of labour, whether we respect its Etymologie *ἀντὶ τῆς ἀντλίας*; or its signification in Latine authors, it being used by them to signify a great bucket, or water-scoupe to draw up water.

<sup>m</sup> *Suet. Tiber. cap. 51.*

Thus *Martial.* *Curta laboratas anlia tollit aquas.*

The hand-mill is often expressed by the latin word *pistrinum* a word frequent in Comick Authors. It much resembled our Bide-well or place of correction, being called *pistrinum* *a pifendo*, from pounding. For before the use of mills was knowne, the *Romans* did pound their corn in a great mortar, calling the place where they pounded it *pistrinum*: whereupon our hand-mill hath retained the same name to this day. And because of the great paines that men did suffer in pounding, as likewise the strict discipline used towards servants thus punished (for <sup>m</sup> their neck was thrust into a certaine wooden engine called *pauis cage*, made for the purpose lest <sup>n</sup> Turn adv. happily in time of grinding they might eat of the meale) <sup>l</sup> 4. cap. 13. hence grew custome among them, that when a servant had offended his master, he would menace him in this manner, *In pistrinum te dedam*, I will cast thee into Bide-well. The punishment *Metallum* was not much unlike the digging in met-



tall-mines, & working in mettall houses, appeareth not onely  
 to have been a base and servile, but also a very laborious and  
 painfull worke, whence it was esteemed a grievous punish-  
 ment to be adjudged to mettall workes, or cast into a mettall  
 house. And either for the increase of such mens paines, or  
 for to keep them from escapes, they were enforced to worke  
 with their setters and geives about them, as is implied by  
 ° *Ulpian* who makes the difference betweene these two  
 phrales, *Damnari in metallum*, and *Damnari in opus metalli*,  
 to be thus; that the first sort did weare heavier and greater  
 fetters then the last. How true the difference is I leave it to  
 the enquiry of others, but that it was a great and infamous  
 punishment *P. Terullian* witnesseth, in that speech of his a-  
 gainst the heathen people, *De vestris semper astuat carcer, de*  
*vestris semper metalla suspirant*. Sometimes there was onely  
 ignominy and disgrace intended in their punishments, of  
 which sort was the bearing up and down the *Roman Furca*  
 in the market place, or elsewhere in publike view, where-  
 of, I have spoken in the chapter of *Furca*, likewise a branding  
 of the Malefactor with some infamous letter in his forehead  
 or hand, or some other part of the body: whence *Pliny*  
 calleth such servants *Inscriptos*. Generally they are called  
*Stigmati* from *σῖγμα*, which signifieth to brand with markes;  
 As *Nebulo stigmaticus*, a rogue burnt in the hand; or any way  
 marked; sometimes such are called *Literati*. The *Athenians*  
 being enemies to the *Samii*, as often as they tooke them cap-  
 tives, they did use thus to burn them for Rogues, which oc-  
 casioned that proverbiall scombe; *Samii nominem esse lite-*  
*ratiorum*.

Sometimes besides the disgrace there was also toilesome  
 paines, as appeared by their *Ergastula*; & sometimes to their  
 paines stripes added: though I deny not, but that many  
 times, correction with stripes was a preparation for death it  
 selfe. This correction by stripes was twofold, either it was  
*Verberatio*, or *Flagellatio*: the first was with roddees called  
*Virge*

° Vid. Cœl.  
 Rhodig. l. 10.  
 c. 5.

p Tertul. apo.  
 log. c. 44.

q Plin. l. 18.  
 c. 3.

r Cœl. Rhod.  
 l. 7. c. 13.



*Virga*; the other with scourges called *Flagella*. That there was a difference between *Virga* and *Flagella*, is plaine by *Tully*, where by way of Irony he saith, *Porcia lex virgas ab omnium civium corpore amovis; hic misericors flagella retalis*. Both of them were counted servile, so that Freemen were ordinarily exempted from them, as appeareth.

—<sup>m</sup> *Ad necem operire loris. Sann. loris liber?*

<sup>m</sup> Ter. Adelp.  
act. 2. scen. 1.  
<sup>n</sup> Epod. Od.

*Horace* also intimating the servile condition of *Meva* saith:

<sup>n</sup> *Sectus flagellis hic triumvirabilibus,*

They are called *Flagella triumviralia* from those *Triumviri* who formerly I translated *Sheriffs*, because to them belonged the oversight of this punishment. *Eustathius* calleth them *ἀσπαλαγὰς ὑδαντας*, id est, *Flagra alaria, seu taxillata*, because to augment the paines, they did usually in these scourges tye certain hucklebones or plummetts of lead at the end of the whip-cords or thongs, and such scourges they termed *scorpiones*. The cruelty of the scourges was such that they many times died under them. Thus have we generally and briefly touched the more usuall punishments. But sometimes wrongs done between party and party, were punished with a retaliation of the same kinde: according to that, *A*

<sup>Tholof. in sy.</sup>  
<sup>jur. univers.</sup>  
<sup>6. 11. l. 31.</sup>

*tooth for a tooth, and an eye for an eye*. And this kinde of punishing was called *Talis*. Yet we are to know that a simple retaliation, such as is termed *Talis Pythagorica*, was not alwaies exacted; but sometimes satisfaction might be wrought by a commutation of the punishment. *Rem habuit facula tempatis cendi, & non necesse habuit pati talionem, nisi eam elegisset*. It were endlesse to speak of all their punishments, and happily not worth the labour, their very names being sufficient comments to explain them. As *Effossio oculorum*, *Amputatio manuum*, *Crunisragium*, *Talisragium*, & such like.

<sup>6. A. Gell. 1. 1.</sup>  
<sup>cap. 1.</sup>





## LIB. 3. SECT. 4.

*Of the Romans Lawes.*

## CAP. I.

*De Legibus.*

Aving spoken of the civill Magistrates, and punishment, we will now also descend unto the civill law: where first we will note among other differences between *Ius* and *Lex* principally these; First, *Lex* signifieth only the Law, but *Ius* signifieth also that place, where soever the Law or Iustice was administred: nor only if it were administred out of the Tribunal in the *Comitio*, or great hall of Iustice, which was termed by the Lawyers, *Agere pro Tribunali*: but also if it were administred in a private house or in ones journey, so that it were by a lawfull Magistrate, and out of the curule chaire; and this was termed by the Lawyers *Agere de Plano*: and hence is it, that *Ius vocare* signifieth to cite one into the Court. Secondly, *Lex* signifieth only the written Law, but *Ius* signifieth equity, so that *Ius permaneat semper, nec unquam mutetur: Lex verò scripta sepius*. Notwithstanding these two words are used promiscuously one for the other, and therefore leaving all curious differences between those words (whether the

*Roman*

<sup>a</sup> Sig de jud.  
l. r. c. 7.

*Discrepant: int<sup>o</sup>  
Jus et Legem.*

<sup>b</sup> Fr. Sylv in  
orat, pro Mil.



Roman lawes were truly *Iura* or *Leges*; thus much we may observe that the laws used among them were of three sorts; either they were such as were made by severall *Roman* kings, and afterwards collected and digested into a method by *Papirius*,<sup>c</sup> from whence it was called *Ius Papirianum*, or they were such as the *Decemviri* brought from *Athens*, and were called *Leges 12. tabularum*: or lastly they were such as the *Consuls*, the *Tribuni plebis*, and such Magistrates did preferre, whence every severall law bore the name of him or them that preferred it. My purpose is to explaine onely this latter sort, and that not all of them, but such alone as I have observed in *Tully*, and that chiefly in his *Orations*. My proceeding shall bee first to shew the divers kindes of Iudgements; and then to descend unto the lawes themselves, beginning with those which shall concern the *Roman* religion, and then proceeding to the others, which concern the common-wealth.

<sup>c</sup> Fr. Sylv. in ep. virorum illust. l. 5. ep. 11.

C A P. 2.

*De Iure publico & privato.*

**T**He cases to be decided by the law were either public like or private, and accordingly were the judgements <sup>d</sup> *vel privata, in quibus ius suum privatus quisq. persequatur: vel publica, in quibus iniuria que reip. facta erat vindicabatur.* The private (as we observed before) belonged unto the *Pratori urbano & peregrino*, that is, the *L.* chief Iustices, who did either give judgement themselves, and then were they said *iudicare*, or they did appoint others to sit in judgement, and <sup>e</sup> then were they said *Iudicium dare*: in the absence of the *Prators* there were ten called *decemviri Stelibus indicandis*, i.e. <sup>f</sup> *super lites indicandas*, who in the same manner as the *Prator*, might either give judgement themselves, or appoint others, for they were even in <sup>g</sup> one place

<sup>d</sup> Sig de iure Rom. lib. 2. c. 18.

<sup>e</sup> Sig. de iud. l. 1. c. 7.

<sup>f</sup> Rosin. ant. l. 7. c. 29.

<sup>g</sup> Alex. Gen. dier. l. 1. c. 16.

D d

and



¶ Per. Ramus.  
in 2m de lege  
Agrar.

¶ Sig. de Iud.  
l. 1. c. 28.  
¶ Sig. de jud.  
l. 1. c. 29.  
¶ Cic. pro  
Quint. Ro-  
scio.

¶ Rosin. ant.  
l. 2. c. 18.

¶ Sig. de jud.  
l. 2. c. 4.

¶ Sig. de jud.  
l. 2. c. 6.

¶ Sig. ibid.  
¶ Sig. de jur.  
Rom. l. 2. c. 18.

and instead of *Prators*: Those which either the *Prator* or the *Decemviri* did appoint to debate the cases under them, were taken out of the *Centumviri*, that is, <sup>h</sup> out of certaine Commissioners chosen for that purpose; namely three out of every Tribe or ward; so that in all, the number of them amounted unto an hundred and five; but in round reckoning they went for an hundred; and from a certaine speare that was wont to be erected up in token of this court, hence was the <sup>i</sup> court called either *Pratoria Decemviralis*, or *Centumviralis hasta*. In some cases their forme of acquittance was thus. <sup>k</sup> *Secundū illum litem do*, whence *Tully* saith, *quo minus secundum eos lis detur, non recusamus*, that is, we doe not deny, but they may be acquitted. Those that were cast in their suit, were said, *Lite vel causā cadere*. The publicke cases belonged ordinarily (except the *consuls*, the *Senate*, or the people did interpose their authority) unto those whom we called *Pratores Quaestores*. Some have thought them to be the same with those, whom *Rosinus* calleth *Iudices Quaestionum* and that I think not altogether upon unsure grounds: first becaule most of these publicke cases which they termed *Quaestiones*, had their <sup>a</sup> severall *Prators* to enquire them, whence they were called *Quaestores*, & may in my opinion be called *Iudices quaestionū*, especially seeing that those w<sup>ch</sup> would have them be different officers, cannot well shew the differences of their offices. Now as the *Vrban Prator* had an hundred Commissioners under him: so had these *Pratores Quaestores* certaine Iudges chosen <sup>o</sup> by the *Vrban*, or forreigne *Prator*, when he took his oath: and that not according to his pleasure as many as he would, or whom he would but sometimes more, sometimes fewer, sometimes only out of the *Senators*, sometimes onely out of the order of *Roman Gentlemen*, sometimes out of both, sometimes also out of other orders, <sup>p</sup> according as the law appointed, which oftentimes varied in those points. The Iudges how great soever the number was, <sup>q</sup> were called *Iudices selecti*, & were divided



vided into severall companies called *Decuria*. These Judges were upon any citation from any of the *Prators*, to give their assistance in the Court upon the day appointed by the *Prator*. Now the manner how they did proceed in their judgement followeth in the exposition of one of the Lawes, and therefore I will refer the Reader thither. Onely let him by the way understand, that whereas *Tully* is quoted in every law, it is not so much for the proove of the law, as to signify that he in that place maketh mention thereof. For the proove of the lawes I referre the Reader to *Rosinus* and *Sigonius*: touching the expositions, my marginall quotations doe prove sufficient.

## CAP. 3.

*De legibus religionum spectantibus.**Lex Papiria.*

**L.** *Papirius Trib. Pleb.* established a law touching the consecration or hallowing of places, that it should be unlawfull for any to consecrate either houses, grounds, altars, or any other things *Injussu plebis*, that is, without the determination of the *Roman* people in their assemblies called *Comitia Tributa*, which determination was alwaies termed *Plebiscitum*.

Cic. pro Do-  
mo.*Roscia lex.*

**L.** *Roscius Otho Trib. Pleb.* preferred a law, that whereas heretofore the *Roman* Gentlemen did stand promiscuously with the commons at their theatrall shewes, now there should be fourteen benches or seats built for those *Roman* Gentlemen which were worth H.S. *quadraginta*, that is about 3125<sup>l</sup>. of our English mony. As for other Gentlemen whose substance was under the rate, they had a certain place allotted them by themselves, with a punishment imposed upon them, if they offered to come into any of those fourteen benches.

Cic. Philip. 2.  
Item, pro  
Muræ.



Fr. Marur.  
in Philip. 2.

Chr. Hegen-  
dorphius in  
Verrinam.

P. Nannius  
in Verrin 5.  
Ch. Hegen-  
dorphius in  
Verrin. 5. m.

Here must we note that this character H.S. standeth for a silver coyn in Rome called *Sestertius*, and is by *Rosinus* in this place improperly used for *Sestertium*. For this character H.S. is by our Printers false printed, the true character being L. L. S. signifying *duas libras* (as the two L.L. doe intimate) and *Semissem*, which is intimated by the letter S. Where if *Libra* doth signify no more then the Roman coyn called A.S. then is this opinion touching the character L.L.S. easy to be confirmed. For divers authors rendering a reason of the name *Sestertius*, say it was so called *quasi Semitertium*, that is, such a coyn as containeth *Duos solidos asses & semissem*. This *Sestertius*, was such a common coyn among the Romans, that *Nummus* and *Sestertius* became at length one to be used for the other; "*Mille huiusmodi sestertii vel nummi faciunt unum sestertium in neutro genere, & consuevit plus minus viginti quinque coronas*. According to which rate, *quadraginta sestertia* amounteth to 3125: and every particular *sestertius* is according to this rate, in value three halfe-pence farthing *q*.

And here we may fitly observe the art of numbring by these *Sesterces*, which consisteth in three rules. First, if the numerall or word that denoteth the number be a noun adjective agreeing in case, gender & number with the substantive *sestertius*, then it signifieth precisely so many *sestertii*: for example sake; *Decem sestertij* doe signify so many times <sup>i</sup>1, ob <sup>q</sup>4 <sup>q</sup>. Secondly, if the numerall being an adjective, and of a different case, be joyned with *Sestertium* in the genitive case plurall, then doth it note so many thousand *Sestertia*: For example, *Decem sestertium* signifieth ten times <sup>7</sup>1 <sup>16</sup>3 <sup>3</sup>4. Thirdly, if the numerall joyned with *sestertium* be an adverb, then it signifyeth so many hundred thousand *sestertij*, ex. gra: *Decies sestertium* doe signify ten hundred times <sup>7</sup>1 <sup>16</sup>3 <sup>3</sup>4. Yea the numerall being an adverb, is sometimes put simply by it selfe, without the addition of any other word to signify in the same manner, the genitive case *sester-*

*tium*



tium being understood. For the better conceiving hereof, the former example may be thus set downe.

Decē sestertii.	valent	10. Sestertios	De nostro	0000 <sup>l</sup> 10 <sup>l</sup> 6 <sup>d</sup> ob q <sup>a</sup> .
Decem sester-		10. Millia se-		0078 02. 6. 0 0.
tium.		stertium.		
Decies sester-		10. Centena		
tium.		Millia		78112 10 0 0 0
Decies		sestertium,		

*Clodia lex,*

*Publius Clodius Trib. Pleb.* made a law, by vertue where- of the Priest called *Pessinnuntius sacerdos* (from the place where hee did first exercise those holy rites in the honour of the mother Goddesse) should be deprived of his Priest- hood, and the Temple built in the honour of this Goddesse should be bestowed upon *Brotigarus*, of *Gallo Gracia*.

Cic. pro Sext.  
item de A-  
rusp. respon.

*Domitia lex.*

*Cn. Domitius Ahenobarbus Trib. Pleb.* enacted a law, that the Colledges of Priests should not as they were wont, ad- mit whom they would into the order of Priest- hood, but it should be in the power of people. And because it was con- trary to their religion, that Church-dignities should be be- stowed by the common people, hence did he ordain, that the lesser part of the people, namely seaventeen Tribes should elect whom they thought fit, and afterward he should have his confirmation or admission from the Colledge.

Cic. Agrar.

*Lex incerti nominis de vacatione sacerdotum.*

*Cicero* in his Orations mentioneth a law (not naming the author thereof) whereby the Priests were privileged from their service in all wars, except only in uproares or civill tu- mults; and these privileges were termed *Vacationes*.

Cic. Philip. 8.  
& pro Font.

x B. Latomus  
in Philip. 5.



## CAP. 4.

*De civitate, & jure civium Rom.**Forcia lex de civitate.*Cic. pro Rab.  
& saepe alias.

**M** *Forcins Trib. Pleb.* established a Law, 'that no Magistrate should beat any Roman Citizen with rods.

Cic. pro Clu-  
entio, & saepe  
alias.*Lex Sempronia.*

*C. Sempronius Gracchus Trib. Pleb.* preferred a law where-  
by he disabled the Magistrate from punishing any Roman  
Citizen, either with rods, or with his axe, that is, with death;  
without the allowance of the people. Secondly, by vertue of  
this law, if any Magistrate did condemn any Roman Citizen  
*Indictâ causâ*, he should be liable to the judgement and cen-  
sure of the people. A third clause to this law was, *Ne quis*  
*coiret, conveniret, quo quis iudicio publico circumveniretur*  
*Indictâ causâ*. He was said to be condemned *causâ indictâ*,  
which was condemned before he had spoken for himselfe.  
Although *Indicere pro non dicere, sicut & invidere pro non*  
*videre vix reperiantur, tamen indictum & invisum, pro non di-*  
*cto & non viso saepe reperiantur.* \* They were properly said  
*Coire*, which did work under-hand against a man, that he  
might be condemned; we may translate it in this place, to  
Conspire. \* The verb *Circumvenio* doth commonly signify  
as much as *Circumscribo*, to deceive or cheat one: but in this  
place to oppresse one with false judgement, procured by  
bribery or confederacy.

y P. Ramus in  
orat. pro Ra-  
birio.q Fr. Sylv. in  
orat. pro Clu-  
entio.a I. Cameret.  
in orat. Cic.  
pro L. Flacco.b Fr. Sylv. in  
orat. pro Clu-  
entio.

C. pro Balb.

*Lex Papia de peregrinis.*

The priviledges of the Roman Citizens became so great,  
that almost all the inhabitants of the confederate nations,  
would forsake their owne dwellings, and use meanes to be-  
come free denisons in the Roman City; insomuch that the  
Embassadours of the Allies, and associates, did grieve much  
and



and complain of the losse of their inhabitants: whereupon a law was made by *Papins*, that all foreigners and strange commers should be expelled out of the City. To the same effect was *Lex Junia*, and also *Licinia Mucia de peregrinis*: the first being preferred by *Mar: Iunius Pennus*: the second by *L. Licinius Crassus*, and *Q. Mutius Scaevola*.

Cic. offic. l. 3.

Cic. pro Balb.

*servilia lex de civitate.*

*C. Servilius Glaucia* preferred a law, *Ut si quis Latinus*, if any of the Latine associates could prove an action of bribery against a *Senatour*, then should he be made a freeman of the City.

*Quis Latinus.* ] Here we will observe with *c Sigonius*, *c Sig. de jur.* that the Latine people were not alwaies called *Latini* & *I- Ital. l. 1. c. 2.* *talici*: sed & *socii* & *Latini socii* & *socii nominis Latini*, & *socii nomenq. Latinum*, & *socii ab nomine Latino*, & *socii ac Latinam dicti sunt*.

*sylvani & Carbonis lex de peregrinis.*

*Sylvanus* & *Carbo* being *Tribuni Pl.* preferred a law, *ut* *Cic. pro Ar.* *qui federatis civitatibus adscripti essent, si tum, cum lex fere-* *chia.* *batur, in Italia domicilium habuissent, ac sexaginta diebus apud prætorem professi essent, cives Romani essent.*

*Adscripti.* ] For the right understanding hereof we must note that there were two sorts of Citizens; some *cives nati*, *d Fr. Sylv. in* that is, Citizens by birth, others *civitate donati*, that is, Citizens by donation, or gift: who because they were added unto, and registred with the first sort of Citizens, were thence called *Adscripti cives*. *orat. pro lege Manil.*

*Professi apud prætorem.* ] This verb *profiteri* is sometimes *c Comitiale verbum*, and signifieth as much as *profiteri nomen*, *c P. Ramus in* that is, to render ones name unto a Magistrate: and this *orat. Cic. Agg.* construction it beareth in this place. *2.*

*Lex Cornelia de Municipiis.*

*L. Cornelius Sylla* preferred a law, that all *Municipall* states should loose their freedome in the *Roman city*, and also their priviledge of having commons in the *Roman field*. *Cic. pro Dom.*

*Gellia*



*Gellia Cornelia lex.*

Cic. pro Balb. *L. Gellius Publicola*, and *Cn. Cornelius Lentulus* being *Consuls* decreed a law, that all those private persons upon whom *Cn. Pompeius* in his wisdom should bestow the freedom of the *Roman* citizens, should ever be accounted free Denisons.

## CAP. 3.

*De legibus ad comitia spectantibus.**Ælia lex.*

Cic. multis in locis.

**Q** *Ælius Petus* asked a law in time of his Consulship, *ut quoties cum populo ageretur*, that is, as often as any *Roman* Magistrate did assemble the people to give their voyces, the *Augures* should observe signes and tokens in the firmament, and the Magistrate should have power *obnunciandi*, & *interdicendi*, that is, to gainsay and hinder their proceedings.

f Agel. l. 13.  
14. cap.

*Ageretur cum populo.* ] Here we may note the difference between these two phrales, *Agere cum populo*, and *Agere ad populum*:<sup>f</sup> He was said *Agere ad populum*, whosoever made any speech or Oration unto the people, and this might be done upon any day indifferently. But then onely was it said *Agere cum populo*, when the people were assembled to the giving of their voyces by a lawfull Magistrate, and the people were demanded what their opinion was in the matter proposed: and this could not be done: but upon one of those dayes which they called *Dies Comitiales*.

g Bersman, de ver. dic. ratione ad finem.

Ovid, Fast.  
Cic. in suis orat. sæpe.

*Fusia lex.*

*Pub. Furius* sive *Fusius Philus*, being *Consul* ordained a law, that upon some certain dayes, although they were *dies Fasti*, that is, Leet-dayes, yet no Magistrate should summon an assembly.

*Cloni-*



*Clodia lex.*

*P. Clodius Trib. Pl.* abrogated both those former lawes, Cic. pro Sext.  
making it unlawfull to observe signes and tokens in the hea-  
vens, upon those daies when the Roman people were to bee  
assembled: And secondly, making it lawfull to assemble the  
people upon any Leet-day whatsoever.

*Gabinia lex.*Cic. 3. de leg.

At first, for many yeares the Roman People in their as-  
semblies did suffrage *Vivâ voce*: at which time many of the  
inferiour sort, gave their voices contrary to their wills, fea-  
ring the displeasure of those that were of higher place. For  
the better help in this point, *Gabinus* asked a law, that the  
people in all their elections might not suffrage *Vivâ voce*,  
but by giving up certaine tablets, the manner whereof hath  
been formerly shewne: whence both this, and all other  
lawes tending to this purpose have been called *Leges tabe-*  
*lariae*.

*Cassia lex.*Cic. in Lzls.

After *Gabinus*, *Cassius* also preferred a law, that both the  
Iudges in their judgements, and the people in their assem-  
blies should suffrage by rendring such tablets: <sup>h</sup> but this is to <sup>b</sup> *Rosin. ann.*  
be understood onely of those assemblies by wards called *Co- l. 3. c. 3.*  
*mitia Tributa*: wherein they treated of mulcts and merce-  
ments.

*Calia lex.*

*Calpurnius Trib. Pl.* established a law, that not only in mulcts Cic. 3. de leg.  
and mergements, but also *In perduellionis iudicio*, that is, in  
taintments of treason against any person of state (namely such  
as were *sacro sancti*) or against the common-weale, this *Ta-*  
*bellary* liberty should have place, when the people should  
judge thereof.

*In perduellionis iud.* ] <sup>i</sup> This word *perduellus* doth signifie <sup>i</sup> *Caelius Sec.*  
an enemie unto the state, a traitour; and hence commeth this <sup>Curio in orat.</sup>  
word *perduellio*, signifying not only the crime of treason, but <sup>pro Milone.</sup>  
the punishment also due thereunto, <sup>k</sup> *Si crimen quod erat gra-* <sup>lib. 3. c. 3.</sup>  
<sup>lib. 3. c. 3.</sup>



vissimum inter crimina, nempe imminente maiestatis: si poena,  
qua erat acerbissima, nempe mortis.

Cic. de leg. 3.

*Papiria lex.*

C. *Papiria Carbo Trib. Pl.* perswaded that not only in their elections, but in the proposall of their lawes also, this suffraging by tablets should be used.

Cic. multis in locis.

*Sempronia lex.*

C. *Sempronius Gracchus Trib. Pleb.* preferred a law, that the Associates of *Latium* should have as great right of suffraging, as the Roman Citizens.

*Manilia lex.*

Cic. pro Mur.

C. *Manilius Trib. Pl.* preferred a law, that all those who were *Libertini*, in what Tribe or Ward soever, should have the right of suffraging.

CAP. 6.

### De Senatu & Senatoribus.

*Claudia lex.*

Cic. Verrin. 7

**Q** *Claudius Trib. Pleb.* perswaded a law that no Senator or Senators father, should have any shippe, - which should containe above three hundred of those measures called *Amphora*, deeming that sufficient for the transportation of their corn from the Roman field. Secondly, by this law the Senators were forbidden the use of trading.

*Amphora.*

*Alexander Neopolit.* observeth two sorts of these measures, namely *Amphora Italica* containing two *Vrinas* and *Amphora Attica* containing three *Vrinas*: every *Vrina* contained two gallons and a pottle. This in probability is understood of the *Italian Amphora*.

*Tullia lex.*

When as a custome had growne, that many of the Senators having by speciall favour obtained *Liberam legationem*, upon

1 Alex. Gen.

hier. l. 2. c. 20.

*Amphora Italica*

containing two *Vrinas*

1. 4 gallons

or 2 pottles

*Amphora Attica*

3. 4 gallons

Cic. Philip. 1.



upon all occasions would abuse that their authority, procuring thereby their private gain, and the increase of their own honour, then *M. Tullius Cic.* being Confull laboured quite to take away these kindes of embassages, which though he could not effect, yet thus far he prevailed; that whereas in former times this *Libera legatio* being once obtained, was never (not through a mans whole life) taken from him again: yet after ward this authority should never be granted to any longer then the space of one year.

*Legatio Libera.* ] Wee may observe in ancient Authours three severall kindes of embassages: The one, which is a message sent from the Prince or chiefe governours of one country unto another, and that is expressed commonly by this one word *Legatio*, without any addition thereunto; sometimes it is called *Legatio mandata*. The second, which is when one purchaseth the title of an Embassadour, thereby the more honourably to performe some vow made, whence it was called *Legatio votiva*. The third is the office or title of an Embassadour, granted upon speciall favour unto a Senatour, that he might with the greater authority prosecute his private suits in law, or gather up his debts in that Province whither he went: this last was termed *Legatio libera*. All three sorts are briefly touched by *M. Tullius*.

*M. Tullius*  
in orat. Phil.

## CAP. 7.

*De Magistratibus.*

**L** Cornelius Sylla being Dictator, made a law, that all such as would follow him in the civill warre, should be capable of any office or magistracy before they came unto their full yeares. A second part of this law was, that the children of such as were *proscripti*, should be made incapable of the Roman Magistracies.

*Cic.* in Pison.

Ec 2

Before



Before they came to their full age.] For *L. Villius* preferred a law, whereby he made such as were under age, to bee incapable of the city preferments: and those hee accounted under age, who had not attained unto that number of years which he had prescribed each severall office: and this law

▪ P. Ramus in Was termed *lex annalis*.

Agrar. 2.

*Proscripti* were such persons as were banished. For the fuller understanding, looke Proscription in the tract of punishments. *Iulius Cesar* did contrary to this law, *Admisit ad honores & proscriptorum liberos*, *Sueton. Iul. 41.*

Cic. Phil. 13.

*Hircia lex.*

*A. Hircius* made a law, that all those that followed *Pompey*, should be made incapable of all places of office:

Cic. Phil. 2.

*Cornelia lex.*

*L. Cornelius Sylla* finding the *Pratores*, that is, the *L. chief* Iustices not to give sentence alwaies according to equity, yea sometimes to goe quite contrary to their own Edict, made a law, that every *L. chiefe* Iustice should administer justice according to that his first Edict, hanged up at the beginning of his office. And addition unto this law was, that the *L. chiefe*-Iustice should not be absent out of the City above ten daies.

Cic. pro Sext.

*Clodia lex.*

In former times it was lawfull for either of the *Censors* to censure whom he pleased, and how he pleased, except his fellow *Censors* did plainly gain-say it, and make opposition therein. But many abusing this their authority, *P. Clodius Trib. Pl.* made a law, that the *Censors* should not over-skip any in their election of *Senators*; neither should they brand any with disgrace, except such as had been accused unto them, and been condemned by them both.

Cic. Verrin. 4.

*Valeria lex.*

The office of a Dictator at the first institution continued but six months space, untill *L. Valerius Flaccus* being *Inter-*

rex



rex, in the vacancy of the Consuls preferred a law, that *L. Cornelius Sylla* should be a perpetuall Dictator,

*Cornelia lex.*

Cic. 3. de leg.

*L. Cornelius Sylla* in the time of his Dictatorship, did by vertue of a law preferred by him, clip the authority of the *Tribuni Pl.* disabling them of bearing any office after the expiration of their Tribuneship, taking away their authority of preferring laws, of using any tolemne speech, or publike oration unto the people, of hearing appeales, of hindring any statute, or decree tending to the hurt of the populacy.

C A P . 8.

*De Legibus.*

*Cacilia Didia lex.*

**Q**uod *Calius Metellus*, & *Titus Didius* being Consuls forbade that *Vnâ rogatione*, that is, in one and the same bill many things should be proposed unto the people; least by that meanes, the people by granting the whole bill, might grant something which they would not; or in denying the whole bill, might deny some particular clause, which by it selfe they would have accepted. Moreover these two consuls ordained, that before a law should be asked in the assemblies it should be promulged; that is, hanged up to the publike view of the people three market daies.

Cic. pro dom.  
sua ad pontif.

*Iunia Lacinia lex de trinuindino.*

*Innim Silanus*, and *L. Licinius Murana* being Consuls established that law of *Cacilius ad Didius*, annexing a more severe punishment for the breakers thereof.

Cic. Philip. 9.

*Clodia lex de intercessione.*

*P. Clodius Trib. Pl.* made a law, that the *Trib. Pl.* should have full authority and power to propose Lawes; neither should they be hindred by the *Intercession*, that is, gain-saying of any.

Cic. pro Sext.



Cic. pro domo  
sua ad pontif.

*Licinius & Ebutius* being Trib. Pleb. ordained that if any preferred a law touching the oversight, the charge, or cure of any business in hand; neither he, nor any fellow officer with him, nor any allied unto him should have this oversight, or charge committed to him.

## CAP. 9.

## De Provinciis.

*Sempronia de Provinciis.*

Cic. de prov.  
consularibus.

**C** Sempronius Gracchus Trib. Pleb. ordained, that the Senate every year before the election of their Consuls, should as it seemed best to them, appoint out what Provinces the Consuls now to be elected, should after the expiration of their office goe unto; for which Provinces afterward the Consuls designed should cast lots. Another clause to this law was, that whereas in former times by a decree from the Senate, it was lawfull for the Tribunes to hinder the Roman assemblies, hence forward they should have no authority.

Cic. ep. 9. ad  
Lentul.

*Cornelia de Provinciis.*

**L. Cornelius Sylla** being Dictator, preferred a law, that whosoever went into a Province *cum imperio*, tam diu illud imperium retineret, quoad in urbem reversus esset: whereas in former times his rule and government was to be resigned at the expiration of a set time appointed: yea although no successor were sent, yet could he not continue there *cum imperio* without a new commission. A clause added unto this law was, that after the coming of any new President or Governor into the Province, the old Provinciall President should depart within thirty daies.

p Sig. de jure  
Prov. l. 3. c. 13  
q Sig. ejusd.  
lib. cap. 6.

*Esse cum imperio.* That is, *P exercitus praesse, & vel habere jus administrandi, & suis auspiciis gerendi belli.*

Titia



*Titius*, or (as some say) *Drusus* preferred a law, that the

Provinciall Treasurers called *Questores*, should cast lots for their Provinces: whence *Tully* in the Oration now quoted inferreth, that although *Ostia* being the better Province fell upon *Servius Sulpicius*, yet in as much as it fell *Lego Titia*, that is, by casting lots, he could not therefore challenge any superiority above *L. Muræna*, *sed utriusq; nomen confedit in Questura*, that is, their fame and renown was equall in their *Questorship*.

Cic. pro. L.  
Muræna.  
r Melancthin  
orat, pro Mu-  
ræna.

*Julia lex de Provinciis*.

*C. Julius Cæsar* established two laws touching the Roman Provinces: one that no *Prætor* should govern a Province above twelve months; nor *Proconsul* above two yeare. The severall heads or clauses of his second law could not all bee found out, but those which have come to light are these. First that *Achaia*, *Thessalia*, and all *Græcia* should be free; neither should any Roman Magistrate sit in judgement in those provinces (*cic. pro domo*) Secondly, that the Provinciall governours and their *Comites*, that is, assistants, or attendants should have hay, and all other necessities provided them on the way, by those Townes and Villages through which they passed. (*Cic. in Pison.*) Thirdly, that the Provinciall Magistrate at their departure, should leave a book of their accounts in two Cities of their Province, and likewise should send a copy of their accounts unto the Roman Treasure-house. (*Cic. in Pison.*) Fourthly, that it should neither bee lawfull for the people to bestow, nor for the Provinciall Magistrate to receive *Aurum coronarium*, unlesse it were in a triumph. (*Cic. in Pison.*) Lastly, that it should bee unlawfull for the Provinciall Magistrate without the allowance of the people or the Senate, to depart out of their Province; to lead forth any army to wage war, or to goe into any forraigne country. (*Cic. in Pison.*)

Cic. Phil. 2.

*Aurum coronarium*.] There was a custome among the Romans

(Lips. de mag  
Rom. l. 2. c. 9.

in



in times of victory to present unto the L. Generall Coronets of Gold, instead whereof the after-ages presented a certaine summe of money, which was thence called *Aurum coronarium*.

*Vatinia de Provinciis.*

Cic. pro Balb.

*P. Vatinus Trib. Pleb.* procured a law, that *Julius Caesar* should have the government of *Gallia Cisalpina & Illyricum* for five yeares space, without any decree from the Senate, or casting lots. Secondly, that they also should goe as Legates, or L. Deputies unto *Caesar*, without any decree from the Senate whosoever were nominated in that law. Thirdly, that *Caesar* should receive mony out of the common Treasure-house towards having an army. Lastly, that he should transplant a Colony unto a certaine towne of *Cisalpina Gallia*, called *Novocomuni*.

*Clodia de Provinciis.*

Cic. pro Domitio.

*P. Clodius* being *Trib. Pleb.* procured a law, that the government of *Syria, Babylon and Persia* should be committed to *Gabinus*, the government of *Macedonia, Achaia, Thessalia, Gracia*, and all *Boetia* should be committed unto *Piso*; & they should receive together with an army, money out of the common Treasury towards their journey.

*Clodia altera de Cypro.*

Cic. pro Sexto.

*P. Clodius* preferred another law, that the Iland *Cyprus* should be made a province. That *Ptolomaeus* the king of *Cyprus* sitting in his purple, with his scepter & other his princely ornaments, *Praecons publico subiceretur, & cum bonis omnibus publicaretur*, that is, should himselfe with all his goods be sold by a common cryer. That *M. Cato* being then Treasurer, *cum jure Pratorio, adjecto etiam Quaestore*, having by commission the office of a L. chief Justice, and another Treasurer to accompany him, should be sent into the Iland *Cyprus*, both to make sale of the kings goods and estate, and also to bring back the mony. Lastly, it was decreed by this law, that those who lived in exilement at *Byzantium*, being condemned



condemned for some capitall crime, should be brought back unto the city, under the name of Romans.

*Praconis publico subiceretur:* ] For the better understanding of that phrase, we are to understand the manner of port-sale among the Romans: which wee may read in *Sigonius* thus. Those things were rightly sold in port-sale, which were publicly sold *Per praconem sub hasta*: that is, by the cryer under a speare sticked up for that purpose, and some Magistrate making good the sale by delivery of the goods. Whence I take *Publico praconi subici*, and *Hasta subici*, to signify one and the self-same thing, namely, to be set at sale: and *Cicero*: Cic. Phil. 11. useth almost the self-same phrase: *Bona C. Pompeii, vocis acer. bissima subiecta praconis*. This kind of sale was termed *Auctionis*: because as *Sigonius* saith in the same place, to him the goods were sold, *Qui plurimum rem augetet*, that is, which would bid most for it: and hence is the seller thereof termed *Auctor*, as *Cic. Id quod a malo auctore emissent*, that is, that u Verrin. 7. which they had bought of one, which had no authority to sell: and from this custome of setting up a speare in this kind of sale, this word *Hasta* alone is used, to signifie port-sale, as *Hasta Caesaris*, the sale of *Caesar's* goods. Those who bought these goods *Tully* doth call *Señores*, *quia spem lucri suis exhibantur*. In such kind of sales, a catalogue, or note of the goods to bee sold was hanged up in tables, for the publique view of passengers. Whence such goods were termed *suspensa bona*. And if any friend would redeem the goods, then did he *deicere libellos*, that is, put in bands and security to answer the matter. The phrase is used by *Tully*, *Cic. pro Quintio*. And also by *Seneca de benef. lib. 4. cap. 12. Suspensis amici bonis libellum deicio, creditoribus eius me obligaturus*. It is thus explained by *Turnebus adv. l. 12. cap. 9.* If the sale proceeded on, then such as proposed to bee chapmen signified their desire by holding up their finger: whence *Digitum tollere* signifieth the desire of buying such goods. *Alex. ab Alex. lib. 4. cap. 26.* x Cic. Phil. 8. y Cie. in Ver. z Sig. de jud. lib. 2. c. 24.



## CAP. 10.

## De Legibus Agrariis.

**T**Hese lawes were termed *Leges Agrarie*, which did concerne the division of the publick, or common fields: And these were either given by *Romulus* and other Kings; or taken from the enemies, or from private men which had made inclosures; or lastly bought out of the common Treasury. *Vide Sigon.*

a Sig. de jur.  
Ball. l. 2. c. 2.  
b Cic. pro  
Sext.

*Sempronia lex Agraria.*

*Titus Sempronius Gracchus Trib. Pleb.* preferred a law which forbad, that any of the *Romans* should have to his own part above five hundred acres of the common fields, the one halfe of which it was lawfull for his sonne to enjoy. If it had so happened that any should enlarge these common fields, three surveyers called the *Triumviri agro dividendo*, did make out which was common, which private ground. Moreover it was by this law provided, that the mony of King *Attalus* who made the people of *Rome* his heire might be bestowed upon those citizens, which had by this law obtained a part of the common fields, to the buying of instruments for husbandry. Moreover that the Kings lands should be farmed out at a set rent by the *Censors*, whence an yearly tribute should be paid to the people.

a Sig. de jur.  
Ball. l. 2. c. 2.

*Cornelia lex.*

Cic. in Rul.

*L. Cornelius Sylla* being Dictator preferred a law, that all the fields of those *Romans* which he had banished should be common. This publication is to be understood chiefly of those fields in *Tuscia*, neare unto the city *Volsur*, and the city *Fesula*, which grounds *Sylla* divided amongst his soldiers.



## CAP. II.

*De frumentariis legibus.**Sempronii lex.*

**T** Sempronius Gracchus being Tribune of the Com-  
mons, provided that a certaine quantity of corne  
should monthly bee given unto the poorer sort at a low  
price, *Semisse & triente* that is, about six pence farthing  
a bushell. Hereupon was there a place appointed in Rome,  
for the keeping of this common corne, together with certain  
lawes hanged up there called *leges frumentariae*. This place  
was called *Horrea Sempronii*. The quantity of corne laid up  
in every city for this purpose is by the latter Lawyers ter-  
med *Canonas Canon Alexandrinus, Canon urbis Romae, &c.*  
*vide Stuck. de conviv. lib. 1. cap. 35.*

Cic. pro Sext.

e Rosin, ant.  
lib. 8. c. 21.

*Semisse & triente.* ] It appeareth by the next law, that *Se-  
missis* in this place must signify the same as *senis aris* doth  
there, Whereby we may note, that *semissis* doth not alwaies  
signify the halfe part of the Roman coyne called *As*, but  
sometime it signifieth a greater coyne valuing almost our  
fixpence.

*Clodia lex.*

**P. Clodius Trib. Pl.** ordained, that that corn which hereto-  
fore was sold to the poore *senis aris & trientibus* by *singulos  
modios*, that is, for six pence farthing a bushell, should hereaf-  
ter be given *gratis*, the charge and oversight of this dole was  
committed to *Sext. Claudius*.

*Terentia Cassia.*

Cic. pro Sext.

in Pison.

Cic. Verrin. 5.

&amp; 7.

**M. Terentius** and **C. Cassius** being Consuls preferred a  
law, *Uri altera decuma à provinciis coemeretur, pretio in sin-  
gulos modios H.S. trium constituto Item ut civitatibus aqua  
dicer imperaretur, pretio in singulis modios H.S. quatuor con-  
stitutum.* to that which



¶ Sig. de jur.  
Prov. l. 1. c. 1.

¶ Fr. Sylv. in  
orat. pro Clu-  
entio.

For the better understanding of this law, wee must note a threefold tithe paid by the Provinces. The first was the tenth part of the graine growing in the province to be paid in *gratis*, and that was properly called *Decuma*, or *frumentum Decumanum*, and those that took this tithe to rent were called thence *Decumani*. A second sort of tithes was a certaine quantity of corne taken up for the L. President or chief governour of the Province, to keep his house, & that was called *Frumentum astimatum*, that is, corn gathered up by way of taxation: for so this word *astimo* comming from *as* doth signifie. *Est autem astimare ab are dictum, id quod vulgo dicunt appreciare & taxare*. The third sort of tithes, was when the Senate finding scarcity of corne in Rome, did injoyne the Provinces to sell them a quantity of corne at a price set down by the Senatours themselves, and this corn sold upon injunction if it was paid but once in the yeare, it was termed *Frumentum emptum*; but if in the same yeare a second sale was injoynd them, then they called that second pay *Frumentum imperatum*. In the first clause of this law by [*altera decuma*] is meant *Frumentum emptum*; in the second clause, by these words [*civitatum aequaliter imperaretur*] is understood *Frumentum imperatum*.

#### Lex Hieronica.

¶ Cl. Verrin. 4. Hiero King of Sicily obtained a law, wherein was set down the quantity of corn that the *Aratores* or country farmers should pay unto the *Publicani*, that is, those which received the tithes, together with the time of payment and this price agreed upon.

#### CAP. 12.

#### De legibus sumptuariis sive cibariis.

In ancient times there was a commendable frugality among the Romans in their feast, but after ages grew to immoderate excess therein, so that whole Goares and Boares



Boars, &c. were set on the table at one time. Such a hog thus dressed. *Cincius* was wont to call *Porcum Troianum*, alluding to the *Troian* horse; because the belly thereof was stuffed with variety of fowle and rabbats, and such like, as the *Troian* horse was with armed men. This kinde of excessive *Tiberius Caesar* laboured to redresse, by serving at his table cold halfe-eaten dishes at solemne feasts, using this proverb, *Dimidiatus aper omnia eadem habet qua totus*. Hence also men of severer discipline enacted lawes termed *Leges sumptuaria* or *Cibaria*, which prescribed a moderation, not only for the charges in their greatest feasts, that they should not exceed such and such summes of mony, but also for the guests to be invited, that they should not exceed such a number. The chiefe of these lawes were these that follow.

*Lex Orchia.*

*C. Orchius* being protector of the commons, by the consent of the Senate, the third year before *Cato* was *Censor*, preferred a law, whereby he only moderated the number of guests, without any limitation of the charges or superfluous expence at feasts.

*Lex Fannia.*

Twenty two yeares after *Orchius* his law *C. Fannius* being *consul* enacted another, for the moderating of expences, allowing *Non plures denis assibus* to be spent in their ordinary feasts: But upon those more solemne feasts dedicated unto *Saturn*, and from thence called *Saturnalia*, likewise when any publique games were exhibited by the Roman people, he then allowed *Centum asses*, ordaining that no other fowle should then be dressed but only one hen, and that not fatted for the purpose.

*Non plures denis assibus*] The Roman coyne *As* was so called *quasi as*, because the matter thereof was *brasse*; at first it consisted of a full pound weight; after ward in the first *Punicke* warre, by reason of the scarcity of mony, they made of every pound of *brasse* sixe of those coynes, each valuing as much

*a* Suet. de conviv. l. 3. c. 3.

*b* Suet. Tiber. 34.

*c* Varro lib. 4. de ling. Lat. l. 1. c. 3. cap. 4.



e A. Gel. 13.  
cap. 1.

much as they did at first. In the second *Panick* warre there were twelve made of every pound; at last by vertue of a law which *Papirius* enacted, foure and twenty were made of a pound; and so they continued; the value alwayes remained the same, *videl. ob. q.* so that to allow but ten of these to a feast, seemeth a matter altogether incredible; but consider with the frugality the cheapnesse of those times, it may bee granted for a truth; \*for ten of these were the price of a sheepe, and a hundred the price of one Oxe.

#### *Lex Didia.*

Eighteen yeares after *Fannius*, *Didius* ordained that the former sumptuary lawes should bee of force, not only in *Rome*, but throughout *Italy*; Moreover that not only the feast-master transgressing, but all the guests should be liable to the penalty.

#### *Lex Licinia.*

*P. Licinius Crassus* preferred a law in a manner agreeing with the *lex fannia*, whereby he rather confirmed *Fannius* his law being now antiquated, then made a new.

#### *Lex Cornelia.*

*Cornelius Sylla* being Dictator ordained a law for the price of meats, so that he was thought by cheapnesse of victuals to encrease rather then to restraints superfluities at feasts.

#### *Lex Antia.*

*Antius Restio* preferred a usefull law, to moderate expences in feasting, which notwithstanding was violated, and in a manner abrogated by the contrary practise of the Citizens in generall. For which cause, *Restio* afterward being invited, would never come to any feast, because he would not be an eye-witnesse of the contempt of that law, which himselfe had caused. If any desire to see more lawes of this nature, let him read *Stuc. conviv. lib. 1. cap. 3. Ant. Gel. lib. 1. cap. 24. And Macrobi. Saturn. lib. 3. cap. 17.*



## CAP. 13.

*De re militari & belli.**Gabinia lex.*Cic. pro lege  
Manilia.

**A** *Gabinus*, Trib. Pl. preferred a law that the managing of the warre against the Pyrats should be in such manner committed unto *Pompey* for three yeares space, that over the whole sea between *Hercules* his pillars, and in the Maritane provinces unto the foure hundredth *Stadium* from the sea, hee should have power to command any Kings, L. Presidents, of whole corporations to furnish him with all things necessary to that warre.

*Manilia lex.*Cic. pro lege  
Manilia.

**C.** *Manilius* Trib. Pl. perswadeth a law, that the managing of warre against *Mithridates* should bee committed unto *Cn. Pompeius*: That the whole province where *L. Lucullus* ruled, together with his whole army should be resigned unto him: Moreover that *Bithinia*, where *Glabrio* ruled should be added, together with all those bands and forces, which he had upon the sea against the Pyrats, and all those provinces, over which the law *Gabinia* did entitle him governor, as *Phrygia*, *Licania*, *Galatia*, *Cappadocia*, *Cicilia*, *Colchis superior*, and *Armenia*.

## CAP. 14.

*De Tutela.*

**T** His word *Tutela* doth signify a wardship, guardianship, or protection of a child in his nonage: whereof *Camerarius* observeth foure sorts, and wee may with *L. Camerar.* *peditarium* add the fifth. Either the overseers were appointed in orat. pro L. by will; or else the next of the kinne were overseers; or the *Flacco* Magi-



¶ I. Omphal.  
in orat. pro  
Cæcilia.  
h. Pellicarius  
pro Cæcin.

¶ Cic. pro  
Muræ.

¶ Vid. leg. 12.  
tabuli.  
¶ Sig. de iure  
Rom. l. 1. c.  
10.

magistrate did appoint whom he thought fit: and these three sorts *Omphalius* calleth thus: the first *Testamentarium*, the second *Legitimam*, the third *Dativam*. The fourth sort *Cæmerarius* calleth *Tutelam fiduciariam*, *quæ eorum est, qui emancipati desissent esse agnati*. The fifth *Pellicarius* calleth *Tutelam honorariam*, namely, when as the office of administration is committed to others, but yet certaine chiefe overseers were appointed to see the will performed, who were called *Tutores honorarii*. Where we must note, that the law provided overseers, not for children under age only, but for women also.

*Emancipati desissent esse agnati* ¶ By the Roman law every sonne was in such subjection unto his father, that before he could be releate d of this subjection, & made free, he should by an imaginary sale, be sold three times by his naturall father to another man, who was called by the lawyers *Pater fiduciarius*, that is, a father in trust; yea and he bought again by the naturall father, and so manumitted by him, and thō he became free. The form of this kind of sale, or alienation, is set down more at large in the explanatiō of one of the lawes that followeth, with an example not much unlike this. This imaginary sale was called *Mancipatio*, the children thus alienated from the father were termed *Emancipati*, this forme of setting free was termed *Emancipatio*. This *Fiduciaria tutela* then, in my opinion was thus. That when any goods did fall unto a child thus alienated, by the death of his father, then should not the oversight of this child fall unto the next of the kin, termed *Agnati*, but *Quoniam desit esse agnatus*, that is, because he had in a manner lost his alliance with his kindred, therefore should the oversight of the child belong unto the father in trust, termed *Pater fiduciarius*: Whence the guardianship it selfe was called *Tutela fiduciaria*.

*Latoris lex.*

This law made by *Latorius* provided, that there should be overseers appointed for those which were distracted, or did

Cic. 3. de of-  
fic.



did prodigally waſt their patrimonie. For, as it appeareth by the common adage, *Ad Agnatos & Gentiles deducendus eſt*, they did account all prodigalls, mad men: they meaning no more by that, then we doe by our english proverb, when we ſay of a ſpend thrift, Let him be begged for a foole. The reaſon of their adage was, becauſe if any were diſtracted, by the Roman law his wardſhip fell *Ad Agnatos & Gentiles*, that is, to the next of the kindred.

## CAP. 15.

*De Teſtamentis.*

**B**Efore we deſcend unto the lawes themſelves, we will expaine thoſe three diuers ſorts of Wils in uſe amongſt the Romans: Namely, *Teſtamentum calatis comitiis*; which was ſo called, becauſe twice in the yeare in time of peace the Roman people aſſembled themſelves together, to this end and purpoſe, that if any would make his will, the whole people might bear witneſſe thereunto: theſe aſſemblies were termed *Calata comitia*. Secondly, *Teſtamentum in procinctu*, that is, when a ſouldier in time of war ready to give battle, did call out three or foure of his fellows, & in the audience of them did by word of mouth pronounce his laſt will & teſtament. Thirdly, *Teſtamentum per emancipationem familie*, that is, by making over his goods and poſſeſſions under a ſained forme of ſale, unto a ſecond party called *Heres fiduciarius & imaginarius*, .i.e. an heire in truſt, who ſhould afterward reſigne them unto the true and lawfull heire: & this imaginary kind of ſale, was performed with certain ſolemnities *circa as & libram*, and alſo the ſale it ſelfe was ſometimes called *Nexus*, as likewiſe *Emācipatio*. Hence was the will ſometimes called *Teſtamentum per as & libram*, ſometimes *Teſtamentum per nexum*. For the prooſe of this, which hath been delivered, touching the three ſorts of wils I



in Sig. de jure.  
Rom. l. 1. c. 12  
Cic. Ver. 3.

will referre the reader to *Sigonius*,  
*Furia lex.*

*C. Furius Trib. Pleb.* made a law, that it should not bee lawfull for any to give away in way of legacy, unto any, except to the kinsmen of him which manumitted him, or some other certaine persons, *supra mille asses*, that is, above fifty shillings or there about, there going two *Asses* & *semis* to the making of one *Sesterius*.

*voconia lex.*

Cic. Ver. 3.

*Q. Voconius Saxa Trib. Pleb.* tulit legem, Ne qui census esset, virginem, neve mulierem *supra quadrantem suorum bonorum heredem institueret*, plusve cuiquam legaret, quam ad heredem, heredemve perveniret.

*Census.* This word *Census* doth sometimes signify all such as have tendred the just valuation of their estate unto the *Censors*; and then *Incensus* is opposite unto it; signifying such an one as hath not tendred his estate or name to be registered by the *Censors*. But in this place *Census* is taken for such a rich man, whose estate was in the *Censors* book valued at one hundred thousand *Sesterces*. (vid. *Africanus in Verrem.* 3.)

*Supra quadrantem suorum bonorum.*] that is, No woman should be heire to more then one quarter of such a rich mans goods. For the right conceiving of this, wee must note with *Lapomus*, that the whole inheritance (were it never so great) was termed *As*, and that was divided into twelve parts, which the lawyers called *uncia*: *Due uncia dicebantur Sextians*, *tres Quadrans*, *quatuor Triens*, *quinq, Quincunx*, *sex Semissis*, *septem Seprunx*, *octo Bessis*, *novem Dodrans*, *decem Decunx*, *undecem Denux*, *Totum as, ut dictum est*, Againe every *uncia* was divided into six parts called *Sextula*: *Due sextule Duellam*, *tres Semunciam faciunt*. So then according to the lawyers (as *Alexander* observeth) if there were one heire alone instituted, he was termed *Heres in Assem totum institutus*; if other wise there were many co-heires, then was it

\* Barth La-  
tom. in orat,  
pro Cecinna.

\* Alex. Gen.  
dier. l. 1. c. 1.



it according as the *Testator* did appoint. Some were *ex De-  
unco heredes*, that is, heires to eleven parts of his goods, there  
being but one part bestowed from him: some were *heredes  
ex quadrante*, that is, heires to one quarter of his goods: o-  
thers were *Heredes ex semuncia*, that is, they had the foure  
and twentieth part: others were *Sextula aspersi*, that is, they  
had the three score and twelfth part of the whole *As*, that is,  
of the whole inheritance; be it more or lesse, &c. Here wee  
must understand, that there is great difference between these  
two phrases, *Institui heres in totum Assem*, & *ex toto Asse*.  
For all those, which we nominated *Heredes*, whether it  
were *ex Dodrante*, *Quadrante*, vel *Semuncia*, or howsoever,  
yet were they termed *Heredes ex toto Asse*, that is, they  
were not *Legatarii*, such as received legacies. Now none  
can be said *In totum assem institui*, but he which is the alone  
and sole heire unto the whole:

## CAP. 16.

*De usu-capione.**Atinia lex.*

**A** *Tinius* made a law, that the plea of prescription, or Cic. Ver. 3.  
long possession, should not availe in things that had  
been stolne, but the interest which the right owner  
had in those stolne goods, should remaine perpetuall. The  
words of the law are these: *Quod surreptum est, eius rei ater-  
na auctoritas esset*. Where by *P auctoritas* is meant *ius domi-* p Sig. de iure  
Rom. l. i. c. 11  
*nii*. This crime of theft, as likewise of usury, was so odious  
unto the *Romans*, that whosoever was found guilty thereof,  
was condemned *q Lege quadrupli*, that is, to pay foure times q Fr. Sylv. in  
Verrem l.  
*Quadruplatores*.



## CAP. 17.

## De Indicibus, &amp; Indiciis.

## Lex accusatoria.

Cic. pro Mur.

**T**ully mentioneth a law termed *Lex accusatoria*, which in truth was no law, neither was there any author thereof: but there was such a received custome amongst the Romans, that the accuser should object against the party accused, not only the present crime then questioned, but all other scapes and faults committed long before, to the bettering of his matter: that at length this accusatory custome became in manner of a law, and so was called *Lex accusatoria*, vid. *Franc. Sylvium in orat. pro Mur.* Their custome also was to procure others to joine with them in their accusations; those Tully calleth *Subscriptores*, because they did subscribe unto the accusation.

7 Alex. Gen.  
dier. l. 3. c. 5.  
/ Cic. pro  
Muræ.

## Lex Servilia &amp; Sempronia.

Curio in orat.  
pro Scauro.

Whereas *Sempronius* had preferred a Law, whereby hee took away the authority of sitting in judgement from the *Senators*, and appropriated it to the Roman Gentlemen, *Q. Servilius Capius* being *Consul* did afterward preferre another law, whereby the administration of judgement was divided between the *Senators* and the *Gentlemen*.

## Rupilia lex.

Cic. in Ver.  
2 Sig de iur.  
Prov. l. 2. c. 5.

*Rupilia lex vetabat diebus triginta sortiri dicam.* [Here we must note with *Sigonius*, that this law was of force onely in the Province of *Sicilia*: also that it is one thing *scribere dicam*, that is, to enter an action; another *sortiri dicam*, that is, by lots to choose the Judges, which was 30. daies after.

## Livia lex.

Cic. de orat.  
l. 3.

Though by vertue of *Servilius* his law the *Senators* were made capable of the office of a Judge, yet they were not thereby



thereby equally capable with the Roman Gentlemen: and therefore did *M. Livius Drusus* ordaine; that the Iudges should be elected equally out of both orders, namely three hundred out of the *Senate*, and three hundred out of the Gentry.

*Plantia lex.*

*M. Plantius Sylvanus* preferred a law, that the number of Iudges should be chosen not only out of the *Roman Senators* and Gentlemen, but out of the populacy also, namely, out of every Tribe fifteen Iudges.

Cic. pro Cornel.

*Aurelia lex.*

*L. Aurelius Cott* being *Prator* made a law, that the Iudges should be chosen out of the *Senators*, the Gentlemen and those *Martiall Treasurers* or *Clarkes* of the band called *Tribuni aerarii*.

Cic. in Ver. spe.

*Pompeia lex.*

*Cn. Pompeius Magnus* being *Consull* ordained, that the Iudges should be elected out of the wealthiest *Centuries*, tying the election notwithstanding to those three degrees of people, namely *Senators*, *Gentlemen*, and *Martiall Treasurers*; also he added that the number of Iudges to examine causes should be seventy and five.

Cic. in Pison.

*Julia lex.*

*C. Julius Caesar*. ordained, that the election of Iudges should be out of the *Senators* and *Gentlemen* only, leaving out the *Martiall Treasurers*; and this *Tully* calleth *legem Iudicariam Caesaris*.

Cic. Philip. 1.

*Antonia lex.*

*M. Antonius* tulit legem, ut tertia iudicum decuria è *Centurionibus*, *Antesignanis*, *Alaudis*, *Manipularibus* fieret.

Cic. Philip. 1. & 5.

*Iudicum decuria*: ] When the *L. chief Iustice* had takē his oath, he chose out some *ex certis ordinibus*, nō *ex omni populo* that is out of such degree and place, as the law required, to sit in judgement on those cases, which were termed *causæ publicæ*: and these Iudges he afterward divided into lesser



numbers called *Dromie*, vid. *Sigon. de iure Rom. lib. 2. c. 18.*

*E Centurionibus.* Centurions were Captaines over an hundred footmen.

*Antesignanis.* This word *Antesignanus* hath a double acception in the Roman histories. Sometimes *Antesignani* doe signify the third part of the Roman army: For all those souldiers that fought before the banners or ensignes, as they were called *Hastari* in respect of their weapon, so were they called *Antesignani* in respect of their ensignes, before which they fought. The second part of the army, as they were called *Principes* in respect of their prowesse, & valour, so were they called *Subsignani*, as fighting under the ensignes. The third part, as they were called *Triarii*, because they fought in the third, or rereward, so were they called *Postsignani*, as fighting behind the ensignes. Where we must not think, that those which were called *Antesignani* and *Subsignani*, were altogether destitute of ensignes among themselves: (for every Maniple had his ensigne:) But the Eagle, & other chiefe ensignes were carried by the *Subsignani*, and in respect had to them they had their names. And hence ariseth the second acception of this word, namely that all those souldiers of every Maniple, which stood in front before their ensigne were called *Antesignani*, and those were commonly the best souldiers in the company. See for the severall proofes of this, *Lips. milit. Rom. lib. 2. tit. 3.*

*Alaudis.* Jul. Caesar pressed a legion of souldiers out of *Gallia Transalpina*, all which afterward hee made free of *Rome*. This legion he called *Legionem Alaudarum*, from the forme of their helmets, which did resemble the head of the Lark, called in French *Alauda*. *Barthol. Latomus in Phil. 1.*

*Manipularibus.* Those Captaines which governed a Maniple of souldiers, were called *Manipulares*. *Fr. Marurantius in Phil. 1.*

*Lex Cincia de donis & muneribus.*

*M. Cincius* being protector of the Commons, *M. Corneli*



*line Ceregrus*, and *P. Sempronius Tudiculus* being *Consuls* preferred a law, that no man should receive a gift or bribe from his client for pleading his cause. Of this wee read in *Plautus*, & he called it *Legem innumeralem*; also in *Tully de Senectute*, *legem Corneliam*.

*L. Cornelius Sylla* preferred a law, that the chiefe Judge of the bench called *Iudex Questionis*, should referre it unto the choice of the defendant, whether he would have judgement passed on him *Clam in Palam*, that is, (as *Sylvius* observeth either by voices or by tables.

Cic. pro Cluentio.

*Memmia Lex*.

Cic. in Ver.

This law (made by *Memmius*) provided, that no action should be entred against those, who were employed abroad in businesse for the common-wealth. An addition unto this law was, that whosoever should *calumniari*, that is, forge an accusation against another, a certain letter should be burnt in his forehead in token of infamy. This law is sometimes called *Lex Rhemmia*. Here we may with *Fr. Sylvius* observe the difference of these three phrases, *Calumniari*, *Pravariari*, and *Tergiversari*. He which doth in his accusation forge faults never committed, is said *Calumniari*. He which undertaketh ones suit, and either will not urge reasons in the behalfe of his client, or answer the objections of his adversary when he is able, is said *Pravariari*; that is, to play the false *Proffour*. He which doth desist in his accusation, & let his suit fall, is said *Tergiversari*.

Cic. pro Sexto.

Roscio.

\* Fr. Sylv. in orat. pro Cluentio.

#### *Lex incerta de Nexu.*

*In iis rebus que mancipi sunt, in periculum iudicii praestare debet, qui se nexu obligavit.* that is, if the buyer of any thing in that forme of sale called *Nexus* be troubled in law, the seller thereof must secure him, and save him harmelesse.

Cic. pro Mur.

*Mancipi sunt* \* Those things were termed *res Mancipi*, which were alienated from the seller *Nexu*, that is, by such a forme of sale as followeth. The forme was thus: At the least five witnesses; all Roman Citizens and of full age, be-

\* Fr. Sylv. in orat. pro Mur.

fides



sides one called *Libri-pens* (from holding of a paire of ballances) should be present: and the chapman & buyer should come with a certain brasse coine in his hand, and say, (for example sake, if it were a bond-slave to be sold) *Hunc ego heminem ex iure Quiritium meum esse aio, isq. mihi emptus est hoc are;* & forthwith striking the ballance with the brasse coyne he gave it to him that made the sale. This kind of chaffering was termed *Nexus*, as we may suppose *a nectendo*, because it did bind the seller to make good the sale: & sometimes it is called *Per æs & libram venditio*, because of the ceremonies used in it. <sup>2</sup> Now it is commonly called *Mancipatio* <sup>2</sup> *a manus capione*, from taking that which is sold into ones hands or possession: whence the word *Mancipatus*, and *Mancipium* are used to signify a bondslave, that is in this manner solde; though sometimes *Mancipium* doth signify the sale it selfe: whence *Cic.* useth this phrase, *Lex Mancipii*, to signify a clause or condition put in the sale. All things sold after this manner were termed *Res Mancipi*, <sup>b</sup> The word *Mancipi* being a nowne indeclinable, as *Frugi, Cordi, Huiusmodi, &c.* and from this forme of sale, the morgaging of land for the payment of mony may seeme to be called *Mancipatio fiduciaria*; He which did thus receive the mortgage, or land in way of security, is said to *accipere fiduciam*. (*Cic. orat. pro L. Flacco.* Vpon which place saith *Lambinus* in his notations, *Accipere fiduciam, est fundum, aut aliam rem soli seu ut appellant immobilem, ab aliquo mancipare, seu accipere ea lege ut cum ille repetat eiremancipet.* We may coniect the reason of these ballances, why they should be used in this kinde of bargaining, to be, because in old time they did not bargain by paying coined mony, which was called *Æs signatum*, but by paying a certain weight of mony; whence such mony was termed *Æs grave*: And hence it is that metaphorically wee translate *Pendo* and *rependo*, to pay and repay.

<sup>y</sup> Sylv. ibid.

<sup>2</sup> Melanct. in orat. pro Mur.  
<sup>a</sup> I. Camerar. in orat. pro Muræ.

<sup>b</sup> Priscian. l. 3. vid. Fr. Sylv. in orat. pro Mur.

<sup>c</sup> Alex. Gen. dier. l. 1. c. 15.



CAP. 18.

*De Majestate.*

*Lex Varia.*

**Q** *Varinus Trib. Pleb.* made a law, that the *Pratores* Cic. pro Cor. *Quaestores* should sit in judgement upon those, by *nel.* whom the allies or Associates had been moved to attempt warre against the Roman people.

*Julia lex.*

*C. Jul. Caesar* ordained, that such as were condemned of Cic. Phil. 2. treason, or causing uproares in the common-wealth, should be banished.

CAP. 19.

*De Ambitu.*

**T**hose lawes were termed *Leges de Ambitu*, which were made against indirect or unlawfull courses used in canvasses for offices.

*Fabia de ambitu.*

This *Lex Fabia* restrained the number of those poore men who because they were wont to follow up and downe, & all the day to attend such as did stand for offices, were thence called *Sestatores*.

*Acilia Calpurnia.*

*M. Acilius Glabrio*, & *C. Calpurnius Piso*, being *Consuls* Cic. pro Mur. made a law, that such as were convinced of sinister and indirect meanes used in their canvasses, should be fined at a certaine summe of mony set on their heads, and they should be made both incapable of bearing office, and uneligible into a *Senators place*.



Cic. pro Mur.

*Senatus consultum de Ambitu.*

*M. Tullius Cic.* and *C. Antonius* being *Consuls*, a certain decree was made by the *Senate*, that if such as did either salute or attend upon those which stood for offices, were hired by any manner of reward; or if any publike prizes were occasioned to be plaid; or any publike feasts made by them, they should be liable to the censure of *Calpurnius* his law.

*Tullia lex.*

Cic. pro Sext.

*M. Tullius Cic.* made a law, that no man standing for an office should cause any publike prize to be plaid, within two yeares that he either had stood, or should stand for an office, unlesse the day had formerly been appointed by some will. Item, he ordained, that *Senators* being found to have used unlawfull meanes, for the attaining of any office, should suffer ten years exilement. And the commonalty offending in that point, should be punished with an heavier punishment, then the law made by *Calpurnius* laid on them. An addition unto this was, that if any being cited to his answer in the court of their undirect meanes, *Si morbum excusaret*, that is, If he did urge his sicknesse for his not appearance, then should he undergoe a penalty.

*Si morbum excusaret.* ] So that *Tully* here seemeth to cut off that liberty, which the twelve tables permitted in these words, *Si iudex altervè ex litigatoribus, morbo sontoico impediatur, iudicii dies diffusus esto.* ] that is, If either Iudge, Plaintiffe or Defendant were sick, they should *diffundere diem, id est, & proferre & in aliud tempus rejicere*, prorogue the time of judgement. And unlesse some might thinke, that by *morbus sontoicus* was meant some strange disease, *Sigonius* inferreth that every disease is tearmed *Sontoicus*, which hindreth us in the performance of our businesse: *Sontes enim nocentes dicunt.*

d Sig. de jud.  
lib. 1. c. 28.

*Licinia de Sodalitiis.*Cic. pro Plan.  
no.

*M. Licinius Crassus* being *Consull* perswaded, *ut in Sodalitiis Iudices, ab accusatore ex tribunis ederentur.*

*Sodalitia*



*Sodalitia*, ] In the latter times the *Romans* in their canvaſſes, would gather together a certain company of their ſide or faction to follow them, tearming them *Sodales* and theſe *Sodales* would as it were by violence, force the people to ſuffrage with them, whence the violence offered by them was tearmed *Sodalitia*, *Sig. de iud. lib. 2. cap. 30.*

*Iudices ab accusatore ederentur ex tribubus.* ] We may read of three ſorts of Iudges among the *Romans*, or rather of three divers kindes of elections of their Iudges. For either they were, *Leſtiſortitione*, of which more may be ſeen in one of the lawes following; or *Editione*, by nomination or naming them, the manner thereof being thus; That either the Plaintiffe ſhould chooſe them all, and then were they called *Iudices edititii*, or the Plaintiffe ſhould chooſe one halfe, and the Defendant the other, and then were they called *Iudices alterni*. *Melancthon in Cíc. pro Muren.*

## CAP. 20.

## De pecuniis repetundis.

**F**Irſt touching the word *Repetunde*, *Sigonius* ſaith that ſuch mony was tearmed *Pecunia repetunde qua poſſent repeti*, which might by the courſe of law be recovered. Namely ſuch mony as any magiſtrate, Iudge, or publike officer, did either in the Provinces or in the City receive as a bribe, from the Allies and Affociats, or from the *Roman* citizens for the adminiſtration of Juſtice, or the execution of any publike duty: and this kind of bribe they termed *Pecunias repetundas, pecuniam ablatam, captam, coactam, conciliatam, averſam* ( *ic. in Urnis.* ) But as it ſeemeth very probable theſe lawes againſt bribery, were firſt occaſioned, for the caſe and reliefe of the *Roman* Provinces and Allies, called in Latine *Socii*, who were much abuſed in this kind by the Prov. *Conſuls*, *Prators*, and *Quaſtors*, &c. Whence *Tul.*



d Cic. in orat.  
pro L. Flacco.

ly called this law against bribery, *Legem Socialem*. Here also may we note, that <sup>d</sup> Tully useth this phrase, *Pecuniam occupare*, for *Fanerari*, to put money to use. *Occupare pecuniam est collocare*, inquit Nonius, id est, *Favori dare*. Vid. Lambin. annot. in Cic. orat. pro L. Flacco.

*Iunia lex.*

M. Iunius Pennus Trib. Pl. preferred a law that no such as were convicted of bribery, *Prater litem astimationem exilium etiam damnato esset irrogatum*.

e Sig. de jud.  
lib. 1. cap. 27.

*Litem astimationem*. Here we will consider the difference of these three phrases, *Litem contestatio*, *Litem redemptio*, et *Litem astimatio*.<sup>e</sup> The first signifyeth the producing of witnesses when both sides shall openly in the court use the forme of words, *Testes estote*: which was not done, *antequam satisfactiones facta essent*, before sureties were put in, by the one, that he should *iudicatum solvere*, pay that which he was condemned; by the other, that he would *rem ratam habere*, that is, stand to the verdict or sentence in the Court. The second phrase signifyeth a composition or an argument agreed upon by both sides between themselves: *Redimere lites est pacificationem facere*; *qui enim paciscitur, facit ut litem non sit*. The third is when the party which is cast in the suit is adjudged to pay the money, or the worth of the goods called in question, together with the cost and damages in law unto his adversary.

f Orat. pro Q.  
Roscio.

g Fr. Sylv. in  
orat. pro Clu-  
entio.  
h I. Tiffin. in  
orat. pro Ra-  
bilio.

*Litem astimare est pecuniam, & qualis fuit, & propter quam condemnatus est reus, in summam redigere, qua de bonis ejus redigatur*.<sup>h</sup> And *Aestimare litem est, quod vulgò dicitur, Taxare litem expensas*.

*Acilia lex.*

M. Acilius Glabrio made a law, that such as were accused of bribery, *Neque ampliari, neque comperendinari possent*, that is, they must out of hand receive judgement.

For the right understanding of these two words [*Amplari* & *comperendinari*] we must consider the ancient customes and ceremonies used by the *Romanes* in handling their suits

of



of law. First there was *In ius vocatio*, that is a citation of one into the Court. Secondly, *postulatio*, that is, a request put up unto the *Prator*, that it might be law full for the plaintiffe to enter his actiō against the Defendant; whence *Postulare aliquem de hoc vel illo crimine*, is to accuse one of this or that crime. Thirdly, *Nominis delatio*, that is, the taking of the Defendants name into the court-booke: and this was termed, *Intendere actionem, vel litem*; and *Diem alicui dicere*, that is, to enter an action against one. In the second of these Acts, namely when request was made by the Plaintiffe unto the *Prator*, that he might enter his action against the Defendant, then the plaintiffe did *Vadari reum*, that is, demand sureties or bale from the defendant, that he would appeare upon the day appointed by the *Prator*: And the Plaintiffe did againe, *Promittere vadimonium*, enter bond also for his own appearance upon the same day, which commonly was the third day following, called properly *Dies perendinus*, and sometimes *dies tertius* simply, as it appeareth by those capitall letters. I. D. T. S. P. used to bee written in their actions: which letters <sup>i</sup> *Probus* expoundeth; Sig. de jud. thus: *In diem tertium, sive perendinum*. So that then properly, lib. 1. cap. 27. *lis vel reus dicitur comperendinari*, when the giving of sentence is deferred till the third day. Moreover before the *Prator* would suffer the action to be entred, he would sweare the Plaintiffe, that he did not accuse the defendant *calumniandi causâ*, that is, falsely or maliciously, and this kind of swearing was termed *Calumniam jurare, calumniam dejurare*, and *In litem jurare*. Now if either party were absent from the court upon the third day, except he were sick, he was cast in his suit, and the *Prator* did grant an execution called *Edictum peremptorium*; whereby he gave authority to his adversary to seize upon his goods. Sometimes there were two or three edicts in manner of Proffes or writs, before the *Edictum peremptorium*, could be obtained; sometimes it was <sup>k</sup> granted at the first, and then was it <sup>k</sup> called *unum pro omni*. cap. 28.



¶ Sig. ejusd. l.  
cap. 21.

*bm*, ¶ Now if both parties came into the court and did appear, then were they said *se sistisse*: so that this word *sisto* amongst the lawyers did signify to shew ones selfe in the court. Vpon the third day the *Prator* also with the whole bench of Iudges did meet, and the *Iudex Quæstionis* (whom *Rosinus* maketh a distinct officer differing from the *Prator*) did cause all the *Select* Iudges to pull out certain lots, out of an urne or pitcher brought thither for that purpose, and those Iudges upon who the lot fell were to sit in judgement: This was called *Sortitio Iudicium*. Now if either the Plaintiffe or Defendant did suspect any of those, that they would be partiall, then might he except against them, and that was called *Iudicium reiectio*: then the *Iudex quæstionis* would in manner aforesaid choote other Iudges in their places, and that was called *subsortitio*. Which being ended, those Iudges which were thus chosen, received every one of the from the *Prator* three tables, the one having this letter A writtē in it, betokening *Absolution*: whence *Tully* calleth it *literam salutarem*: the other having this letter C, written in it, betokening *Condemnation*: the third having these two letters *N. L.* betokening *Non liquet*. After the receipt of the tables, then did the *Prator mittere vel dimittere iudices in consilium*, that is, sent them to cast their tables into the urnes, there being three urnes or little coffers purposely provided; the one for those judges which were chosen out of the *Senators*, the other for those that were chosen out of the *Gentlemen*, the third for those which were chosen out of the *Martiall Treasurers*. Now if they did cast the first sort of tables into the urnes, then the *Prator* pronounced the defendant absolved, if the second, then he pronounced him condemned; if the third then he pronounced *Amplius cognoscendum*, that they must have longer time to enquire: And this is properly termed *Ampliatio*, a Reprive, & in such manner it is said, *quod lis vel rem dicitur ampliari*. The proofes for this manner of proceeding in law, may be collected out of *Rosinus lib. antiq. 9.*

cap.



cap. 19. 20. & 24. and out of *Sigonius* according to the marginall quotations. The like custome seemeth to have been received also among the *Gracians*, who had three letters of their alphabet, answerable to those among the *Romans*; Θ was *damnationis symbolum*, which occasioned that of *Perfins*,

*Et potis es nigrum vitia praeferere Theta.*

T. a token of absolution, A. of ampliation, *Vid. Erasmi Adag.* Θ *praeferere*. Some as it appeareth by *Erasmi*. give a reason of Θ, because it resembleth the heart of man, wounded in the middelt with a dart, others because it is the first letter of *salvatus* Θ, signifying death according to that.

*Infaelix multis theta est mihi litera felix.*

*Si Θ datus scribis scribis & illa Θ viv.*

*Cornelius Siba* being *Dictator* ordained a law, that the chief Judge called *Judex Quaestionis*, with the whole bench of Judges should sit upon life and death, on such as had killed a man; on such as had with an evill intent set any place on fire; on such as should walke with any weapon, either to kill or rob a man; on such as had either made, bought, sold, had; or given any poyson, thereby to kill a man, or any magistrate, whosoever should cause any conventicle or secret assemblies, or should give their consent to the suborning of any man, to accuse another falsely, that thereby he being innocent, might be oppressed and condemned by publique judgement. Moreover *De ejus capite quarisio &c.* that is, Let them sit upon life and death on that man, which shall bear false witnesse, that another might be condemned to death, on that magistrate or chiefe judge, which shall take a bribe to condemne another to death.

*Parricidium.*] This word doth properly signify only a murdering of ones parents or kinsfolk, but in *Numa Pompilius* his time, it signified as much as *homicidium*, that is any man-slaughter whatsoever.



## CAP. 31.

Lex 12. tabularum de vindictis.

**S** I qui in iure manum conferunt, utriq; superstitionibus presentibus vindictas sumunt.

*Si qui injure.*] Here we must note that the custome among the Romans in old time was, that as often as any controversy did arise touching the possession of an house, a field, or any such like thing, the *Prator* did goe unto the house, field, or the thing questioned being accompanied thither with the plaintiffe and the defendant, together with others whom the law required to be present as witnesses. This place wherefoever it were, though in the open field, during the time that the *Prator* sate there to give judgement, was tearmed in latine *Jus*, in English a Court. Where in the presence of the *Prator* & the witness, the Plaintiffe & Defendant did *manum conferere*, that is, as *m Camerarius* supposeth, argue and dispute the case *pro & con* in a solemne forme of words prescribed them by the law. For this phrasis is borrowed by the Lawyers from the art military, where souldiers are said *manum vel manu conferere*, when they fight hand to hand, [*Utriq; superstitionibus presentibus*] that is let both parties in the presence of witnesses (so *a Festus* expoundeth *superstites*) [*Vindictas sumunt*] that is, let them take a turfe of the ground: for so *o Sigonius* expoundeth *Vindicta*; though properly (as he observeth) it signified the possession of a thing, rather then the thing possessed. This turfe being taken up, was carried to the *Prator*, and judgement was given upon that, as upon the whole. I doe presume that in other cases, as in taking the possession of an house, &c. some other thing in manner of the turfe was presented unto the *Prator*, upon which as upon the whole he gave judgement. In proceffe of time, the *Prator* by reason of the tumult of other employments, not finding convenient leasure to review every particular

m I. Camerar.  
pro. L. Mu-  
ica.

m Rosin. ant.  
lib. 8. c. 29.  
o Sig. de jud.  
lib. 1. c. 21.  
*Vindictam*  
*ferre est sen-*  
*tentia decre-*  
*toq; rem obti-*  
*nere dicebat.*  
*Vindictas ju-*  
*dex ferebat.*  
*Vindictas qui*  
*rem obtinebat.*  
*Turneb. adv.*  
l. 13. 27.



cular ground, or house called in question, & it was ordained contrary to the twelve tables, that the plaintiffe in such cases should come into the court, and challenge the defendant in this forme of words, *Ex jure manu conseritum te voco*, that is, I challenge thee to goe out of the court into the field, to use one towards the other that solemne forme of words which the law injoyneeth. Then did the defendant either yield the possession of the ground, or else did reply, *Unde tu me ex jure manu conseritū vocāsti, inde ibi ego te revoco*. Then did they both taking witnesses with them without the company of the *Prator inire viam*, that is, goe into the ground bringing back a turfe thereof, upon the which (as in manner shewne) the *Prator* gave judgement at their returne.

For the better understanding of this that hath been spoken in the explanation of this law, we must note that the action termed *Vindicatio* was twofold: either the suit for the possession of a thing, or the suit for the Lordship or right owning thereof. The possession of any thing was recovered, either by a true and reall violence or by a seeming violence: This seeming violence was twofold, either it was *mann conseritio*, which was shewne immediatly before; or *Moribus deductio*, that is, a customary leading the unlawfull possessor out of the ground, thereby to enter possession. *Vis simulata*, altera à lege, altera emanavit à moribus; saith *Signon*. The first of these did arise from the *Roman* law, the other from a custome amongst the *Romans*: the first of these is to be seen in *Tully* his oration *pro Murena*, the other *pro Caccinnâ*: To these *Signonius* addeth a third kinde of seeming violence; which how justly he hath termed a violence, I shall leave to the indifferent judgement of the unpartiall reader. The right of the Lordship or owning any thing was sued for in this manner: the plaintiffe did question with the defendant thus; first *An auctor esset?* that is, whether he had not covertly made away the possession of the thing, thereby to frustrate the action. Secondly, *An sponderet*, that is, whether he would

q De ind. lib.  
1. cap. 21.



r Sigon. de ju-  
dic. l. cap. 21.

f Cic. orat. pro  
Murzena &  
pro Cæcin.

r Sig. de jud. l.  
1. cap. 21.

u Sigon de ju-  
dic. l. l. c. 27.

put in a gage of mony into the court, which he would forfeit if he were cast, which being done, the plaintiffe did also upon the demand of the defendant put in a gage of mony to be forfeited, if he prevailed not in his suit. This gage of mony was termed *sacramentum*; and in this sense, *Tully pro Milone*, saith, *Injustis vindiciis & sacramentis alienos fundos petunt*, that is, they sue for other mens grounds, with unjust actions and gages of mony. Thirdly, *An satisdaret*, that is, whether he would put in surety, that during the triall in law, the ground or house called in question should not be impaired? The solemne forme of words used in the first demand, is thus to be seen in *Tully*, *Quando in jure te conspicio, postulo aures auctoris*: If the defendant held his peace, then was he adjudged to pay all costs and dammage; if he professed himselfe the present possessor, then did the plaintiffe proceed in manner as he should for the possession thereof; if he denied it, then did the *Pretor* say unto the plaintiffe, *Quando negas, sacramento querito*: Thereupon saith the plaintiffe to the defendant, *Quando negas, te sacramento quinquagenario provocas: spondes ne te saluturum quinquaginta asses, si auctor sis?* To whom the defendant replied, *spondeo quinquaginta asses si auctor sim: Tu vero spondes ne idem, ni sim?* The Plaintiffe answered, *Ego quoq; spondeo*. Now in this kind of stipulation, the plaintiffe was said *sponsione & sacramento provocare, sacramento rogare, querere, & stipulari*, that is, to challenge one to pawnea summe of mony for the triall of a suit in law. The defendant was said, *cotendere ex provocatione, contendere sacramento, & restipulari*, that is, to be sued in such manner. This mony was termed *sacramentum*, because when it was forfeited, it was bestowed in *rebus sacris & divinis*. Touching the last interrogatory, I read no set forme of words, but by the word *satisdatio*, the intelligent reader may conject, that it did somewhat symbolize with our English custome of putting in bayle. This putting in of bayle was twofold: The one was *satisdare iudicatum solvi*, to bind himselfe

to



to pay what should be adjudged. The second, was *facis dare rem ratam habere*, To become bound that he would stand to the verdict and judgement of the court. The first of these bonds was required to be performed by the defendant: the second by the plaintiffe's Proctour or Attourny. But if the Action were an action of debt, then the Proctours alone became bound; the Plaintiffes Proctour that he would stand to the judgement; the Defendants Proctour, that the debt adjudged should be paid.

I 2

*LIB.*







## LIB. 4.

*Rites and customes observed by the Romans  
in their warres.*

*De Militia.*

Touching the art *Military* used among the *Romans*, it will not be impertinent to consider first how war was proclaimed, and peace established by them; then to march on to the description of their bands, or companies, where we may first observe the office of their chiefe Capitaine, and their subordinate leaders, together with the severall wards, into which the universall army was divided. After this we may descend unto the diversity of punishments used toward Captives, and likewise towards refractorious and disobedient souldiers: Adding as a *Corollary* or *Period* to our whole discourse the severall rewards, which the L. Generall with his souldiers after the performance of certaine noble atchievements received.



C A P. I.

*De ritu, quem Romani observârunt vel fœdus ferientes, vel bellum inferentes: & de triplici ratione conscribendi milites.*

**V**VEE may remember that it hath been already shewne, that both the proclaiming of warre and peace belonged unto a certaine order of Roman Priests called *Fœciales*, who by reason of their office I englished *Heraulos* at armes. The rites and ceremonies, which they used, when they proclaimed peace were as followeth: *viz.* One of those *Herauls* having his commission from the State (after that both sides had agreed upon the truce and league now to be concluded) took up a stone in his hand <sup>a</sup> using this soleimne forme of words: *Si rectè & sine dolo malo hoc fœdus atq; hoc iurjurandum facio, dii mihi cuncta felicia præstent, si aliter aut ago aut cogito (ceteris omnibus salvis) in propriis patriis, in propriis legibus, in propriis laribus, in propriis templis, in propriis sepulchris solus ego peream, ut hic lapis è manibus decidet*, and therewithall he cast the stone out of his hand: which manner of oath was tearmed *Iurare Iovem lapidem*, or *per Iovem lapidem*, that is, as it hath been rendred by *Festus*, to sweare by *Iupiter* holding a stone in ones hand. <sup>b</sup> Many say that he did cast that stone at an hogge or porker brought thither purpofely, adding these words to the former: *Si prior populus Romanus defexit publico consilio, tum ille Diespiter, populum Rom. sic ferito, ut ego hunc porcum hodie feriam*: alluding to which custome *Virgill* saith,

*Et casâ iungebant fœdera porcâ.*

The manner of denouncing warre hath been already shewn. The act of service in warre was tearmed *Mereri sub hoc vel illo duce*, that is, to serve in warre under this or that Captain; and whatsoever souldier was discharged of his ser-

<sup>a</sup> Polyb. vid. Rosin. antiq. lib. 10. cap. 2.

<sup>b</sup> Sig. de jure Ital. 1. cap. 1.



e Orat. pro  
lege Manil.  
d Serv. l. 2. &  
7. Æneid.  
e Lipf. de mil-  
lit. Rom. lib.  
1. dial. 8.

vice, as having served out his whole time, he was called *miles emeritus*, & by <sup>e</sup> Tully, such a one is said *stipendia consecisse*. <sup>d</sup> Servius hath observed that the Roman souldiers were pressed three manner of waies: *per Sacramentum, Coniurationem, & Evocationem*. But <sup>e</sup> Lipsius censurcth him for the amisse explanation of the last member. Therefore the indifferent reader shall give me leave to borrow the terms from Servius; but the explanation of them partly from Servius, & partly from Lipsius in the places now quoted. Ordinarily souldiers at their presse did each severally take their oath not to forsake their Captain or country; and this oath was called *Sacramentum militare*; the words thereof are rendred by <sup>f</sup> Polybius thus: *Obtemperaturus sum, & facturus quicquid mandabitur ab imperatoribus, iuxta vires*; & those were termed *Milites per sacramentum*. This sort of souldiers were upon appointed dayes as it were of publique Muster, elected and chosen by the military Tribunes under the Consuls: the assignement of the day did chiefly belong unto the Consuls, at which time if any souldier withdrew himselfe, & did not appeare, he was severely punished, sometimes by imprisonment, sometimes by confiscation of his goods, sometimes by being sold for a bondslave. Vpon extraordinary occasions (as when tumults or commotions did cause any suspicion of imminent danger) the chiefe leader of the souldiers did goe unto the Capitoll, and bring forth two banners or flaggs, the one red, called therefore *Vexillum Roseum*, unto which the footmen repaired; the other sky-coloured, called therefore *Ceruleum*, which the horsemen followed. The reason why the horsemens banner was sky-coloured, is <sup>h</sup> rendred thus, because it did most resemble the colour of the sea, which colour they deemed most acceptable to Neptune who was both the God of the sea, and the first authour of horses. Now because the suddaine danger would not yield so much time, that they might severally be shorne, therefore did they take their oath in common altogether, only one chiefe souldier throughout

f Vid. Lipf. de  
milit. Rom. l.  
1. dial. 6.  
g Lipf. de mil.  
Rom. l. 1.  
dial. 4.



throughout a whole legion, took his oath at large, and in expresse words, the rest followed in order one by one, saying *adāmp i opōr*, that is, that he swore the same as the first. if the Tribune distrusted his souldiers fidelity, then would he swear the every one severally in termes at large, and thence were they called *Milites per coniurationem*; as likewise *Milites subitarii* in respect of their suddain presse: The third member may also be admitted, if we with *Lipsum* understand it in its true sense, namely for those souldiers who by the L. Generall were added unto the body of their army, he having authority to call out such other souldiers, who for their long service were discharged from giving in their names at a muster: And these are generally by all authors termed *Milites evocati*, and *Lipsum* deemeth them all one, with those whom *Servius* calleth *Milites per evocationem*. The souldiers being thus pressed, if they purposed to make war upon their enemies, then did the L. Generall summon them to prepare themselves by a sound of Trumpets, & this was termed *Classicum canere, àvalando*, which signifieth to call. Which being done, a skarlet banner was hanged out at the L. Generall his pavilion frō which ceremony I think that that common adage did first arise, *Conferre signa, & Collatis signis pugnare*, to joyn battle. Immediately upon this they did *Garristum tollere*, make a great shout or noyse with their voices to the greater terror of their enemies: & that the noise might be the greater, they did *Arma concutere*, rustle together with their armour, and clash their swords. These foure ceremonies are to be seen more at large in *Lipsum*. Vnto which we may adde the fift, observed by *Fr. Sylvius*; namely that at the removing of their campe they did *conclamare vasa*, give a great shout or cry in token that the souldiers should trusse up their bagge and baggage: and hence it is that *Plantus* useth this phrase, *colligatis vasis*, to signify as much as *parare* or *expedire*. Now that they might be the readier for battle, they did gird (as I suppose) their souldiers coats close unto

*i* Lips. de mil. lib. 1. dial. 6.

*†* Lips. de mil. Rom. lib. 1. dial. 8.

*‡* Lib. 4. de milit. Rom. dial. 11. & 12. *¶* In ep. viror. illust. l. 4. ep. 1. *‖* Plaut. in Pseudolo.



unto them; and a souldier thus girt was called *Cincturus*, that is, (saith *Pighius*) *Cinctus tutus*.<sup>o</sup> *Inde discinctos ignavos, & militia minimè aptos putarunt, Præcinctos verò fortes, & strenuos.* Hence also is that proverbiall speech, *In præcinctu stare or Vivere*, to be in a readinesse continually.

*Non pudet ad morem discincti vivere Natta. Pers. Sat. 3.*

## CAP. 2.

*De Legione. Auxiliis. & Legionis partibus.*

THE Roman forces were in old time divided into two severall parts; namely in *Legiones & auxilia*, into Legions and Auxiliary bands. The Auxiliary bands were such forces as the neighbour and confederate countries did send unto the *Romans*. The Legions were taken out of the body of the *Romans*, p *Legio, à deligendo dicta est*, from the choice and selecting of souldiers. q *Romulus* is said to have been the first author of these Legions, making every Legion to containe three thousand footmen, and three hundred horsemen, r one thousand footmen and one hundred horsemen being taken out of each nationall Tribe. Afterward it was augmented by *Romulus* himselfe into foure thousand footmen; s whence it was called *Quadrata legio*. And in pro- cesse of time a legion increased unto the number of six thousand; which number it seldome or never exceeded (as it appeareth by *Sigon* in the place now quoted.) Now t none could be ordinarily registred for a souldier untill the seven- teenth yeare of his age, u at which his first admission he was tearmed *Tyro*, a fresh-water souldier: and hence figuratively *Tyrociniū* hath not been translated only the first entrance into warre, but also the initiation or first entrance into any art or science whatsoever. After he had served many yeares, then was hee tearmed *Veteranus*, an old beaten souldier. x The Roman legion was divided *In pedites & equites*, there being

q Pigh. in sua  
præf. ad lib. 1.  
septim.

o Alex. Gen.  
dicr. l. 1. c. 20.

p Plutarch. in  
Romulo.

q Roſin. ant.  
lib. 1. c. cap. 4.

r Sig. de jure  
Rom. l. 1. c. 15.

s Sigon. ib.

t Alex. Gen.  
dicr. l. 1. c. 20.

u Pandrol. l.  
verum deper-  
dit. cap. de  
habit. & vest.  
veter.

x Sig. de jure  
Rom. l. 1. c. 15.



being commonly for every thousand footmen an hundred horsemen. *Pedites distributi erant in Cohortes; Cohortes in Manipulos; Manipuli in Centurias: Equites distributi erant in Turmas, Turma in decurias.* The word *cohors* doth signify that part of ground, which is commonly enclosed before the gate of an house, & which from the same word wee call a Court: & Varro giveth this reason of the Metaphor. As in a farme house (saith he) many out-buildings ioyned together make one inclosure: so *Cohors* consisteth of severall maniples ioyned together in one body. It is manifest (saith *Alexan.*) that the *Romans* in ancient time did very seldome, yea never (except in great necessity) inroll into their universall army above foure legions: and in an ordinary legion, which he termed *Legionem iustam*, ten *Cohortes*; every *Cohors* containing 3 maniples, every maniple two Centuries, every Century an hundred souldiers: whence they from *Centum* were called *Centuria*, a century: These centuries were sometimes divided into lesser numbers called *Contubernia*; every *Contubernium* containing ten souldiers besides their Captain, which was called *Decanus*, and *caput Contubernii*. Where we must observe, that *Contubernium* doth signifie as well the pavilion or lodging it selfe, as the souldiers lodging therein: & it may be so called *quasi contubernium*, from *Taberna* signifying any slight lodging made of boards. Those that ruled over a thousand footmen we may in English call *Serians maior*: They called them *Tribuni militum*. Those that governed over the centuries were called by them *Centuriones*, by us in English *Centurions*, and they had their inferiour officers under them which were called *Tergiductores*, or *Extremi agminis ductores*. Their office was to oversee and look unto those of the camp which were sick, who commonly came behind the army, *quasi extremum agmen, & tergum aciei*. The horsemen were divided into severall troopes, called *Turma*, every *Turma* containing thirty horsemen. Again every *Turma* was subdivided into three lesse companies called *Decuria*; every

a) Edmunds in his observ. upon Cæsars Comment. lib. 2. c. 3. & Varro lib. 3 de re rustica. a Alex. Gen. dier. l. 1.

b) Varro vid. Rosin. ant. Rom. l. 10. c. 5 c) Rosin. ibid.

d) Veger. vid. Rosin. ant. Rom. l. 10. c. 7



*Decuria* containing ten horsemen: whence their captain was called *Decurio*, and the captaines over the greater troopes, namely over the severall wings of the horsemen, were called *Equitum præfetti*. Now the chiefe governour over the universall army was called commonly *Imperator*: we in English call him a L. Generall. His Lieutenant or L. deputy was called *Legatus*,<sup>e</sup> who in old time was sent *non tam ad imperandum, quàm ad consulendum imperatori*. This word *Imperator* in the Roman histories hath a threefold acception: first it is taken for him, who by commission from the state hath the managing of an army, being the same that *Prætor* was in ancient time; and in this sense it hath affinity with the office of our L. Generall. Secondly, for such a L. Generall, who by his prowess having put some thousand of his enemies to the sword, was both by his souldiers saluted, and the Senate stiled by the name of *Imperator*. But if he had slaine lesse then one thousand, he was not thought worthy of this solemne salutation by that name. Lastly, it was taken for a soveraigne Prince, King, or Monarch, in which sense it was the *Prænomen* of all the Roman Emperours, from *Iulius Caesar* forward. Now because the souldiers in a legion must of necessity differ much in estate, age, & experience, some being wealthier, elder, & of more experience then others; hence was it requisite also, that there should be a distinction of places in their armies, according to the desert and worth of each severall person. We are therefore likewise to understand, that the *Consuls* every yeare made a generall muster: at which time the military *Tribunes* chose out the youngest and poorest of all the rest, and called them by the name of *Velites*. Their place in regard of other souldiers was base and dishonourable, not only because they fought a far off & were lightly armed; but also because they were commonly exposed to their enemies as forlorne hopes. According to<sup>h</sup> *Lipsius* these *Velites* were commonly placed either *In Fronte, visis*, or *Cornibus*. 1. In the front of the army. Secondly, in the distances

<sup>e</sup> Lips. de mil.  
Rom. lib. 2.  
dial. 10.

<sup>f</sup> Barth. Latom.  
in Phil.  
arat. 14.

<sup>g</sup> Lips. de mil.  
Rom. l. 1. di. 3.

<sup>h</sup> Lips. de mil.  
Rom. lib. 4.  
dial. 3.



stances, or spaces between the several maniples. 3<sup>ly</sup>, In *Cor-  
nibus*, that is, in the wings of the battle: not that the wings at  
any time consisted of those *Velites*, for that was the *Socii* and  
Auxiliary forces; but either the spaces in the wings were fil-  
led up by those *velites*, or else they might obtaine a promi-  
cuous place among those forrainers. Notwithstanding they  
did like scouts run too and fro casting out their darts (as oc-  
casion was offered) and so retire: whence when a man doth  
leap from one thing to another in his talke, we say he doth  
*Agere velitatim*. Having chosen out a competent number of  
these scouts, they proceeded to the choice of them, which  
they called *Hastati*, that is, Pike-men: forasmuch as they  
fought with a kinde of javeling, which the Romans called  
*Hasta*. These Pike-men fought in the first part or fore-front  
of the main army. The third choice which they made, was of  
the strongest and highest bodied men, who for the prime of  
their age were called *Principes*: and hence was the second  
place or ward in the main army called *Principia*, according  
to *Thraso* his speech, *Ego ero post principia*, that is, I will fol-  
low the *Principes*; thereby choosing to himselfe the best, and  
safest place. The last sort of souldiers, which stood in the third  
place or ward, were called *Triarii*. They were of all, the  
most approued, and the very last help or refuge; so that if  
they failed, all was lost: and hence ariseth that forme of  
speech, *Ad triarios ventum est*,<sup>k</sup> whereby we signifie that  
a thing is come to the last push. As I suppose, the weapon  
wherewith these *Triarii* fought, was a dart with yron fastned  
at the end of it, called in Latin *Pilum*. The reasons of this my  
conjecture are these: first because the first century of these  
*Triarii* was called *Primum pilum*, & their centurion *primo-  
pilus*, and *primipilus*, & *Primus centurio*, because he was the  
chiefe Centurion in a whole legion, as having the charge  
of the chiefe banner called the Eagle; <sup>l</sup> whence *Aquila* is  
sometimes used to signify *Primo pilatum*, the office & place  
of the *Primopilus*. The second Century was called *secundum*

i Terent. Eun.  
A&. 4. Scen. 7.

k Alex. Gen.  
dier. l. 5. c. 25.

l. Lips. de mil.  
Rom. lib. 2.  
dial. 1.



*pilum*, and their Centurion *Secundi pilus*, &c. Secondly, they called the *Principes*, which marched in the battle immediately before these *Triarii*, *Antepilanos*: which argueth that those souldiers which followed next, should be the *Milites pilanos*, & by consequence their weapon should be that kind of dart which they called *pilum*. Their manner of embattling was divers. Sometimes they would make a winged army so that the main body thereof should be in the middle, and on each side a lesser company: The main body wee in English call the *Hauntgard*, and the two lesser companies wee call *Wings*; as likewise in Latine they called them *Alas aciei*, & *dextrum vel sinistrum eorum*. <sup>m</sup> *Pancirollus* calleth them *vexillationes*, because there fought no more in either wing then belonged to one banner, called in Latine *vexillum*. The governours of these wings he calleth *Alarum Praefectos*. Sometimes they embattled so that the forefront of the army being small, it was enlarged bigger and bigger backward, in manner of a triangle: By <sup>n</sup> *Lipius* it is demonstrated unto us under the form of the Greek letter Δ. He in the same place calleth it *caput porcinum, quia velut fodit, & ruit invadendo*. Commonly it is called *Cuneus militum*, the metaphor being borrowed, not only from the resemblance it had with a wedge but also from the use of a wedge: for they never embattled in that form, unlesse it was to break through their enemies, the peircing angle being thick compacted with targets. Sometimes they did in a quite contrary manner, enlarge their army in the fore-front, making it to end in an angle: and <sup>o</sup> this they called *forfex* & *Forceps militum*. Sometimes their form of embattling was secular, & then was it called *Orbis*, vel *globus militum*. The banner or flag was properly called *Vexillum*, being a diminutive of *velum*. It was also called <sup>p</sup> *Bandum*: whence we doe at this day call so many souldiers as doe fight *sub eodem bando*, a band of souldiers: as *Romulus* called those that fought *sub eodem manipulo fani* (an handfull of hay being used at that time instead of a flag) *Manipulum militum*, *Ovid*

*Percita*

<sup>m</sup> *Pancir*. in  
notit. orient.  
& occident.  
imper. c. 32.

<sup>n</sup> *Lipf*. milit.  
Rom. lib. 4.  
dial. 7.

<sup>i</sup> *Lipf* ibid.

<sup>p</sup> *Festus* vid.  
*Panc* in not.  
orient. & oc-  
cidet. imp.  
cap. 32.



*Percita suspensos portabat longa maniplos,  
Unde manipularis nomina miles habet.*

† *Suidas* is plain, Βασιλεὺς ἑλληνιστῶν τοῦ σιμαῶν τοῦ ἐν πολέμῳ, † *Suid.* in voce  
that is, The Romans called their military ensigne a *Band*: *Bandy*.  
hence others have used *Βανδύβη*, to signifie as much as *Sig-*  
*nifer*, an Ancient bearer.

C A P. 3.

*De oppugnatione urbis, & iis qua ad oppugnationem requiruntur.*

**I**F the siege of a town seemed difficult and hard to passe, then did the Romanes use certaine meanes of policie, for the better effecting thereof. They environed the town with a broad and deep ditch, adding thereunto a rampier, fortified with many castles and fortresses; whereby they both kept the town from any forraign succour, & withall secured themselves from sallies, and other stratagems. This rampier did extend it selfe toward the walls of the city; so that by making (as it were) a great hill, they might overtop the city, and fight with the greater advantage. Now that this greater heap of earth might become firm, and well able to support the buildings to be erected upon it, they did cast in such timber, and stones among the earth; and this heap of earth, stones, and timber when it was reared, was properly called *Agger*; whence commeth both the Latine verb *Exaggerare*, and the English to *Exaggerate*, that is, to amplify or encrease a matter. The stakes, posts, and trees, which were rammed in about this bulwark, or rampire to uphold the earth, were sometimes called *Cerni*, because of their forked and sharp tops, but more properly *Valli*, and *Valla*. The distance or space between each stake, was called *Interval-lum*; though now *Intervallum* doth signifie not onely such a distance, but any distance either of space or time, as it appea-

q *Lips. Polior.*  
lib. 2. dial. 2.  
r *Serv. Aenei.*  
l. 10.  
s *Cic. ep. fam.*  
l. 1. ep. 7.



f Cicep. fam.  
lib. 1. ep. 7.

g A. Gel. Noc  
Attic. l. 1. 15.

h Rosin. ant.  
Rom. lib. 10.  
16.

i Lip. polior.  
lib. 1. dial. 9.

j Rosin. ant.  
R. l. 10. c. 16.

k Stad. in Flo.  
l. 4. c. 10.

l Rosin. ant.  
Rom. lib. 10.  
cap. 16.

reth by that of *Tully*, *Intervallo locorum, & temporum distincti*, Sometimes *Vallus* doth signifie a pole or stake, where unto vines are tied; according to that received adage, which we use when a speciall friend forsaketh one, *Vallus vitem decipit*. From the first signification it is, that *vallum* doth often signifie the inclosure, or hedging in of trees & stakes, where- with the bulwark is upheld: alluding whereunto *A. Gellius* translateth. *ἄρκος ὁδύτων vallum dentium*. The meanes of their defence, whiles they were making this their rampire, was a certain engine or ordinance of warre \* made of planks and hurdles running upon wheelles, under which they might rest secure from all stones and darts cast from the walls of the city: It was called *Vinea*. A second engine was *Musculus*. The matter whereof it was made I have not read: but the use of it was, that under it the souldiers might approach unto the walls of the city, & undermine them. Thus much \* *Lipsius* seemeth to infer, when he rendreth the reason of the name: *Musculus ideo dictus, quia instar eius animalculi foderent sub eo terram*. A third meanes of their defence was *Militaria testudo*. This word *Testudo* in the art Military had a double acception, both being borrowed from the resemblance of the *Tortoise* shell, which is the true and genuine signification of this word. In the first acception *Testudo*, \* doth signifie a warlike engin or fence made with boards covered over with raw hides, which served against fire and stones cast at the souldiers, under this they might safely assaile the wals. \* In the second acception it signified a target-fence, which was a close holding together of targets over head like a vault or rooffe, wherewith the footmen did defend themselves from the thick shot of arrowes or slinging of stones. Their rampire or countermour being finished they used certain great timber towers made upon wheelles to runne too and fro, which they called *Turres ambulatorie*, moveable turrets. These towers had many stories one over the other, \* wherein they carrying ladders and casting bridges thereby to scale the wals



wals. The engines hitherto have been defensive, such where-  
with the Romans defended themselves in their siege: others  
there were offensive, wherewith they did assaile the city;  
and of those the chiefe were *Balista* sive *Catapulta* *Scorpio*  
sive *Onager*, *Aries* & *Mulleoli*. The first of these engines as it  
was called *Balista* ἡ τοῦ ἐλάτου, from darting or casting forth  
any, thing, <sup>b</sup> so was it in old time called *Catapulta* ἡ ἐκ μακρῆς  
which signifieth a shaft or dart; though it cannot be denied,  
but that *Pelta* doth also signifie a kinde of shield made in the  
forme of an halfe-moone, according to that of *Virgil. Æn.*  
*lib. 1.*

*Ducit Amazonidum lunatis agmina peltis.*

*Penthesilea furens* ———

The forme thereof followeth, translated word for word out  
of *Marcellinus*. (Between two planks there is set in frame; <sup>c</sup> Alm. Marc.  
and fast joyned a strong and big yron, reaching out in length <sup>l. 23, cap. 3.</sup>  
after the manner of a good great rule; out of the round body  
whereof, which is artificially wrought, there lyeth forth  
farther out a foure square beame, made hollow with a direct  
passage in manner of a narrow trough, tied fast with many  
cords of sinewes twisted one within the other, and there-  
unto are joyned two wooden skrewes; neere unto one of  
which standeth the cunning Balister, and subtilly putteth in-  
to the hollow passage of the beame a wooden shaft with a  
big head glewed fast to it. This done on both sides, two lu-  
stie young men doe bend the engine by turning about cer-  
tain wheelles. When the top of the head is drawne to the ut-  
termost end of the cords, the shaft being carried forth of the  
*Balista*, by the inward force thereof, it flyeth out of sight.)  
That the reader may receave the more light in the understā-  
ding of this obscure descriptiō, I have added the very words  
of *Marcellinus*. [*Ferrum inter axiculos duos firmū compagi-*  
*natur & vastum in modum regula maioris extentum: cuius ex*  
*volumine torretis, quod in medio ars polita componit, quadratus*  
*eminet stylus extensus recto canalis angusti meatu cavatus, &*  
*hac*



*hac multiplici chorda nervorum tortilium illigatus: eiq; cochlea  
duo lignea coniungantur aptissime, quarum propè unâ adfixit  
artifex contemplabilis, & subtiliter adponit in remonis cava  
mine sagittam ligneam, spiculo maiore, conglutinatam hocq; fa-  
cto hinc inde validi invenes versant agiler rotabilem flexum.*

† Mubine  
Serratorie.

*Quum ad extremitatem nervorum acumen veneris summum,  
percita interna pulsu à balista ex oculis evolat.* In respect of  
its use we may english it a Crosse-bow: but it was much big-  
ger, & of a different form. The *Scorpion*, which now they call  
*Onager*, is described by *Marcellinus* in the same place thus.  
Two oaken or elm beames were hewne out, and somewhat  
bended, so that they seem'd to bunch out in backs; & these in  
manner of a † saw engin are tied fast together, being bored  
through with wide holes, through which (by the meanes of  
those holes) strong cords are tied, keeping in the whol frame  
that it start not asunder: \* From between those bunches, ano-  
ther wooden beam reaching forth overthwart, & in a man-  
ner of a wain-beam erected up, is tied with such devises un-  
to certain ropes, that it may be pulled up higher, or let down  
lower at ones pleasure; and at the top thereof certain yron  
hooks are fastned, from which hookes there hanged down a  
certain sling either of yron or tow: under which erected  
beame there lyeth a great piece of haire-cloath, fall of smal  
chaffe, tied fast with cords, & placed upon a banke of turfes  
or a heap of bricks: When therefore it commeth to the point  
of skirmish, a round stone being put into the sling, foure  
young men on one side loosing the beames, into which the  
ropes are incorporated, doe draw back the erected beam un-  
to the hook. Thus at length the master of the engin standing  
in some high place, giving a mighty stroke with a hammer  
(and as I suppose upon the cord, whereunto the erected  
beame was fastned with his hook) setteth open the railes  
that containe the whole work, insomuch that this erected  
beam being now at liberty with that quick stroke, and hit-  
ting against the soft haire-cloath, it hurleth out the stone,

that

† Ab hac me-  
diate testi-  
um) Here wee  
must note that  
this significa-  
tion of testes  
is borrowed  
from the Ana-  
tomists which  
doe cal certain  
eminent parts  
behinde.

gallibondis.  
Testes Vid.  
Fuch. instit.  
med. l. 1. Sec.  
5.



that will batter whatsoever is in the way. And it is called *Tormentum*, quod ex eo omnis explicatio torquebatur. It is also called *Scorpio*, because when the long beame or tillar is erected, it hath a sharp top in manner of a sting. The modderne time hath imposed unto it the name of *Onager*, that is a wild Ass, because that wild Asses, when they are coursed by hunters, sling back stones with their heeles a farre off, so that oftentimes they pierce the breasts of them that follow them. The Latine word is made from the Greek *ὄνος*, that is, *Asinus*, & *ἀγέω, rus*, vel *ager*. Now if any aske me, why that sackcloth or ashes was interposed, the reason is rendred by *Marcellinus* in two lines, which I purposely did not translate in their place, because I would continue the sense, without such a long parenthesis. The reason is there delivered thus; because the violence and force of the erected beam recoiling, after it had been by the stroke discharged, was such that it would shake in pieces the strongest wals, except there were some soft thing interposed, whereby the forcible strength of the recoil might be by degrees shaken. The *Aries* or Ramme is described also by *Marcellinus* in the same place. [The Ram was a great tree, or beam like unto a mast of a ship, having a peece of iron in manner of a Rams head, fastned at the end thereof, therewith they did demolish and batter downe the wals of a City. It was hung unto a beam, which lay a crosse over a couple of Pillars, and hanging thus equally ballanced, it was by force of men pulled backward, and then recoiled upon the walls.] The Rams which *Titus* used at the siege of *Hierusalem*, ranne upon wheelles, which kind of Rams are described by *Iosephus*. There be, saith he, other manner of engines, as an iron Ram upon foure wheelles, bound with yron, and fastned with yron nayles, to this they make foure feet answerable to the bignesse of the beam, and every beam hath his severall wheel, & when they will batter the wall, certain men first pulling it back, they recoil it by the help of four wooden leavers put in the hin-



der part thereof for that purpose. The head of this Ramme hath no hornes, but is blunt, made of the strongest kinde of yron, with a wonderfull thick neck. They have also of both sides of the Ram a pentise of wood for the safegard of those that recoile it. *Iosephus Ben. Gorion de bello Iudaico*: In lieu of these Rammes another engine was found out, called *Helepolis*, *ab inusitato* *hæw*, that is, *capio*, and *πόλις*, that is, *ciuitas*: The form of it is to be seen also in *Marcel. ibid.* [There was (saith he) a *Tessudo*, or vaulted frame made, strengthened with very long pieces of timber: it was covered over with Oxe hides, and green wicker hurdles, the upper part or convex surface thereof was overlaid with mudde, to the end that it might keep off the fall of fire and casting of weapons. Now there were fastned in the front of it certain *Cuspides trifurcæ*, that is, yron pikes with three edges very massie, in manner of the thunderbolts, which Painters and Poets exhibit unto us. This great engine the souldiers ruling within with diuerse wheels and ropes, with main force they thrust it against the walls. [ *Adaltools* (saith the same *Marcellinus*) were certaine darts fashioned on this manner: there was an arrow made of a cane, betwixt the head and the neck whereof was fastned an yron full of clefts, which arrow like unto a womans distaffe, on which linnen is spinned, was finely made hollow within the bellow, yet open in many places: In the belly it receiued fire with fuel to feed upon, and thus being gently discharged out of a weake bow (for with an over strong shooting the fire was extinguished) if it took fast hold on any place, it burned the same, and water being cast thereon, the fire increased, neither was there any means to quench it, but by casting dust on it. ] Now if they could not preuaile by these engines called *Machine*, then did they make certaine passages under ground, which they called *Cuniculi* from *Cuniculus* signifying a cony-berry: insomuch that these two phrases are opposite, *Machinis*, and *Cuniculis oppugnare*, as it appeareth by that of *Plutarch*, *Cæsar non iam cuniculis*,

sed



*sed machinis solit rempublicam*, that is, He doth not now covertly, but with open violence assault the common weale.

CAP. 4.

*De Pœnis in Hostes devictos.*

**A**lbeit after the victory the Romans inflicted diverse degrees of punishment, according to the malice found in an enemy, yet were they alwaies compassionate, and (as histories testific) more exorable then any other nation. The punishments which we finde them to have used towards a conquered nation are these: Either they punished them by death; or sold them *sub corona*; or dismissed them *sub iugum*; or merced them in taking away their territories; or made them tributary states. \* An enemy was said to bee sold *sub corona*, when he being placed in the market-place, a crowne was put upon his head in token of such a sale: or therefore certaine captives were said to be sold *sub corona*, because at such times they were environed about with souldiers to keep them together; and this circle of souldiers, as likewise all other companies, is called *Corona*. When they dismissed any *sub iugum*,<sup>f</sup> they erected two speares with a third lying a crosse in manner of a gallows: then they ca-<sup>f</sup> Stad. in Flor. lib. 1. c. 12. sed them being disarmed, and their belt taken away to passe under in token of bondage. When their territories were taken from them, they were commonly conferred upon old beaten souldiers, in way of remuneration for their faithfull service. This transplantation was tearmed *Colonia deductio*: and the place ever after *Romana colonia*, that is, a Roman Colony: At which times they chose out every tenth man, viz: such as were able and of best sufficiency to make & establish a publique councill, & whom they named *Decuriones*.<sup>g</sup> Sig. de jur. Ital. 1. 2. c. 4. Whence we may observe, that *Decurio* is not alwaies taken for a Captain over ten horsemen, but sometimes it is used to



signify an Alderman or chiefe Burgesse in a *Roman* Colony. These Colonies were of two sorts, some called *Colonia Latina*; others *Italica*. The Latin Colonies had *Ius civitatis suffragii* & *Magistratus capiendi*; si in sua Colonia magistratum gessissent. *Italici* autem, *Ius civitatis* & *suffragii* nullum erat, immunes tamen erant, nec tributum aut stipendium pendebant, ut provincie solebant. *Turneb. advers. l. i. c. ii.* Divers times the *Romans* would be content after the conquest to grant to their enemies a peaceable injoying of their lands & possessions, conditionally, that they would yield all faithfull allegiance unto the L. deputy, whomsoever the Senate of Rome should place over them, The L. Deputy was either stiled by the name of a *Proprator*, a *Proconsul*, or a *Præfatus*. Those places where the two first sorts of governours did rule, were termed *Provincia*; the other from the governour was termed *Præfectura*. Where we must observe that this word *Provincia* hath a threefold acception: First it is taken for a country, which by the force and power of armes is subdued to the Roman Empire, & governed by some Roman Deputy sent from the Senate; & this is the proper & primitive signification thereof, it being so called, *Quod populus Romanus provincie, id est, ante vicie*. Secondly, it is taken for any region or country, where the L. Generall or chief Captain over a Roman army doth mannage warre against any nation by commission from the Senate. Lastly, it signifieth any publike function, or administration of office; yea any private duty, charge or task either undertaken, or imposed; according to that of *Terence*, *Provinciam cepisti curam*, that is, thou hast undertaken an hard task. Now the tribute to be paid was either certain or uncertain. The certain was properly called *Tributum* vel *Stipendium*; and those who paid it were termed *Tributarii* five *Stipendiarii*: and this Tribute was of two sorts; either ordinary, such as was required from every house yearly, even in the time of peace; or extraordinary, such as was levied by a law or decree of the Senate towards unexpected

b Pigh. lib,  
Tyrannif.

¶ Terent. in  
Phor.



pected charges. The uncertain tribute <sup>k</sup> properly called *Flagal*, was either impost-mony, such as was collected in haven townes for the transportation of merchants wares, and that was called from *Portus*, *Portorium*, or from *Porta*, *Portarium*, and the receavers thereof *Portitores*. The wares after the impost mony had been paid, were sealed by the *Publicanes* with a certain kinde of tempered chaulk: and this is that which *Cicero* understandeth by *Asiatica creta*, *orat. pro Flacco*: or tithe corne, namely the tenth part of their graine; and that was called from *Dacem*, *Decuma*, and the receavers thereof *Decumani*, though *Decumani* when it is an adjective signifieth as much as *Maximo*, according to that of *Ovid. lib. 1. de Trist.*

<sup>k</sup> Sig. de jur.  
Rom. l. 1. c. 16  
Stadius in  
Flor. l. 1. c. 13.

*Qui venit hic fluctus fluctus supereminet omnes;  
Posterior nono est, undecimog<sup>o</sup> prior.*

The reason of this signification is <sup>m</sup> supposed to be, because in *Arithmetick* amongst simple numbers the tenth is the greatest: or lastly that mony which was paid by certaine heards-men for pasturing their cattle in the *Roman* fields and Forrests: This kind of tribute was called *Scriptura*, and the pastures *Agri Scripturarii*; because (as <sup>n</sup> *Festus* saith) the Bayliffe or receaver of this mony, called *Pecuararius*, did *Scriptendo conscribere rationes*, that is, keep his account by writing. Where we must note, first, that all these kindes of Tributes were not only required in Provinces or Countries subdued, but throughout *Italy*, even in *Rome* it selfe. Secondly though each collector of these Tributes was distinguished by a peculiar name; yet by a generall name they were all called *Publicani*, in as much as they did take to rent these publike tributes. The chiefe of them, which entred into bond, as the principall takers or farmers of these tributes *Tully* calleth *Mucipes*. The others which were entred into the same bond as sureties, were termed *Prædes*. Many times the *Romans* did bestow the freedome of their city upon forreigne countries; & the degrees of freedome were proportioned accordingly

<sup>m</sup> Fr. Sylv. in  
viror. illust.  
ep. 2. lib. 1.

<sup>n</sup> Sig. de jure  
Rom. l. c. 4.

*Cic. de Arusp.  
respons. & ali-  
as sæpe.*



as the countries were. Some they honoured with the name of *Roman* citizens, but excluded them from the right of suffraging, leaving them also to be governed by their owne lawes and magistrates. This state they called a *Municipall* state, in Latine *Municipium*, because they were *Admueris huius honoris participes*. By *Munus honorarium* in this place is understood nothing but the bare title of a *Roman* Citizen, whereby they were privileged to fight in a legion as free Denisons, not in an auxillary band, as the associates. Now the first that ever obtained this *Municipal* state, were the *Cerites* who for preserving the holy things of *Rome* in the time of the warre against the *Gauls*, were rewarded with the freedom of the city, but without power of suffraging. From whence it is, that those tables wherein the *Censors* inrolled such as were by them deprived of their voices, were called *Cerites tabula*; *Horace* calleth such a table *Ceritem ceram*, for the reason shewne before. But we must withall observe, that some *Municipall* townes have either by desert or instant suit obtained the liberty of suffraging also, which occasioneth that received distinction, that there was *Municipium sine suffragio*, & *Municipium cum suffragio*. Other countries which could not be admitted into the freedom of the City, have obtained, and that not without speciall & deserved respects to be associates and confederates, unto the state of *Rome*. The inhabitants of such countries were sometime called *Socii*, sometimes *Amici*, sometimes *Latini nominis socii*, &c. The King or Prince of such a country did stile himselfe *Amicus & Socius Senat. & Pop. Rom.* Here we must observe a difference betweene *Pactio* and *Fœdus*, both signifying a kind of league. That truce which in time of warre is concluded upon and accepted of both sides for a certaine & limited space of time, is properly called *Pactio*; we commonly call it *Inducie*; and it differed from *Fœdus*: first because that *Fœdus* is a perpetuall truce or league. Secondly because it was necessary, that one of those Heralds at armes called *Fœciales*, should by

pA. Gel. noct.  
Attic. lib. 16.  
cap. 13.

q A. Gel. lib.

r Sig. de jure  
Ital. l. 1. c. 1.

s Sigon. ib.



a solemne proclamation confirme this league called *Fœdus*, neither of which conditions was absolutely requisite in their truce termed *Pactio*.

CAP. 5.

*Multa militares, quibus milites Romani ob delicta afficiebantur.*

**T**ouching the punishments that the Roman L. Generall used towards his owne souldiers, when they were faulty, they were commonly proportioned unto the fault committed: Sometimes they were easy, of which sort were also those punishments which did only brand the souldiers with disgrace: other times they were heavier, such as did hurt and afflict the body. To the first sort belonged these: First *Ignominiosa dimissio*, that is, a shamefull discharging of a souldier, when he is with disgrace removed from the army. Secondly, *Fractatio stipendii*, that is, a stopping of their pay: & such souldiers which suffered this kind of moleſt, were said to be *ere dñati*, because *Et illud dñratur in fiscũ, non in militis sacculum.* 3<sup>ly</sup>, *Censo hastaria*, whereby the souldier was injoynd to resigne and give up his speare: for as those which had atchieved any noble act, were for their greater honour *Hastã purã donati*, so others for their greater disgrace were inforced to resigne up their speare. Fourthly, the whole *cohors*, which had lost their banners, were compelled to eat nothing but barley bread, being deprived of their allowance in wheat: and every Centurion in that *Cohors* had his souldiers belt or girdle taken frõ him, which was no lesse disgrace amongst them. then it is now amongst us, that a Knight of our order of the Garter, should be deprived of his Garter. 5<sup>ly</sup>, for petty faults they made them to stand barefooted before the L. Generall his pavilion, with long poles of ten foot length in their hands: & sometimes in the sight of the other souldiers

(Rolin. ant. lib. 10. c. 25.)



souldiers to walke up and down with turfes on their necks. In the last of these they seemed to imitate their city discipline, whereby malefactors were enjoyned to take a certain beam resembling a fork upon their shoulder, & so to carry it round about the towne; it hath some affinity with our carting of queanes here in England. In the first we have no custome that doth more symbolize, then the standing in a white sheet in the open view of a congregation. The last of their lesser punishments, was the opening of a vein, or letting the blood in one of their armes: \* which kinde of punishment was used towards those alone, which (as they conceived through the abundance of their hot blood) were too adventurous & bold. The heavier kinds of punishment were these: first *Virgis*, vel *Fuste cadi*, to be beaten with rods; or with staves & cudgels. None were ordinarily beate with cudgels, but those who had not discharged their office, in the sending about that table called *Tessera*, wherein the watchword was written; or that had forsaken their place, where they were appointed to keep watch; or those who had stolen any thing from out the camp: or borne false witness against their fellowes, or abused their bodies by women: or lastly, that had been punished thrice for the same fault: those which were in this manner cudgelled, were often killed in the place: but if they escaped alive, they went to live in perpetuall exilement. The ceremony used in this kinde of cudgelling was that the \* knight Martiall should lightly touch the party to be punished with a club, which being done, all the souldiers did beat him with staves and cudgells, whence we may say of one that deserveth a good cudgelling in \* *Tully* his phrase *Fustuarium meretur*. *Polybius* calleth it *ζυλοκομία*. *Vid. Lip. de milit. Rom. lib. 5. dial. 18*. If a Roman souldier had broken his rank by going out of order, then *Virgis cadebatur*, that is, he was scourged with rods. Sometimes the knight Martiall upon just occasion would cause them to be sold for bond-slaves, to be beheaded, to be hanged. All these punishments

were

\* Alex. Gen.  
dier. 2. c. 13.

\* Trib. milit.

\* Cic. orat.  
Phil. 3.



were personal or particular; there remaineth one which was generall, namely when the fault was generall, as in their uproares, conspiracies, &c. Vpon such occasions the souldiers were called together, and every tenth man upon whom the lot fell was punished with that kinde of cudgelling above spoken of; all the others escaped either without punishment or with very litle. The punishment it selfe was termed *Decimatio legionis*, and the reason of this kinde of punishment is rendred by *Tully: ut metus viz: ad omnes, pœna ad paucos perveniret*. Sometimes such was the clemency of the L. Generall that he would punish only the twentieth, nay the hundredth man, and then was it called *vicefimatio, vel centesimatio legionis*.

y Cie. pro  
Cluent.

C A P. 6.

*De donis militaribus ob rem fortiter gestam.*

Concerning the rewards which were bestowed in war, some were by the Senate conferred upon the L. Generall: others were by the L. Generall conferred upon his souldiers. Those honours which the L. Generall received were three. First *Nomen imperatoris*, of which before. Secondly *supplicatio*, that is, a solemne procession continued for many daies together, sometimes more, sometimes fewer: all which daies the Roman people did observe as holy-daies offering up daily prayers and sacrifices to the Gods in the behalfe of their L. Generall. The custome being that after some notable victory, the souldiers having saluted their chiefe captain (whom I call their L. Generall) by the name of *Imperator*, then would he send letters unto the Senate dight with lawrell, wherein he required both that name to bee confirmed & approved by them, as likewise that they would *Decernere supplicationes*, that is, appoint such solemne supplications. Thirdly, they honoured him at his comming home also with a triumph: *Triumphus vel major, vel minor erat*, saith

Mm

Alex.



† Salmuth, in  
Pancir. l. rerū  
deperd. cap. de  
triumph.

¶ Ode, 3. l. 4.

‡ Salmuth, in  
Pancir. l. rerū  
deperd. cap. de  
triumph.

§ Alex. Gen.  
dier. l. 6. c. 17

¶ Dion. Hal.  
lib. 5.

§ Alex. Gen.  
dier. l. 1. c. 22.  
f. Scrv. Aenei  
lib. 10.

¶ Fr. Sylv. in  
orat. Cic. pro  
Cn. Plancio.

*Alexander*. The lesser kinde of triumph was properly called *Ovatio*, \* *ab ove*, from a sheep, which in this time of his triumph was led before him, and after ward sacrificed by him, as also in the greater triumph (called properly *Triumphus*) the L. Generall sacrificed a Bull: it differeth from the greater triumph first in the acclamation, for in the lesser triumph the souldiers following did as it were redouble this letter O & some are of opinion that it was therefore called *Ovatio*. In the greater triumph the souldiers followed crying *Io triumphe*, *Io triumphe*: an example whereof may be seen in. *Horace*, where he describeth the triumph of *Bacchus*, the first author of this greater triumph; from whose *b* name also divers Authors doe derive this word *Triumphus*, he being in Greek called *Σπλάγος*, which by a litle change is made *Triumphus*. Secondly they differed, because in the greater Triumph, the L. Generall did weare a garment of state, called by some *Trabea*, *c* by others *Triumphalis*, *Picta*, vel *Aurata vestis*; likewise a garland of lawrell, riding in a chariot, the *Senators* themselves with the best of the *Romans* meeting him, his souldiers with their coronets, their chaines, & other rewards following after: But in the lesser triumph the L. Generall did weare a plain purple gown without any gold imbroadering, and a garland of mirtle tree, *d* commonly going on foot, sometimes permitted to ride on a horse; the gentlemen and commonalty of *Rome* alone without the *Senators* did meet him. Moreover for a perpetuall memory of this their triumph in some publike place certain trophies were erected. *Tropheum monumentum dixere, nunc marmoreum, modo aescum, cum inscriptione & titulis, a vo perpetuo duraturis.* *f* *Diffum est, in triumphando, id est, a conversione*, from making the enemies to retire and turn back. Sometimes there were statues, columnes, & arches built in token of triumph. These arches though commonly they were known by the name of *Arcus triumphales*, yet sometimes they are called *Fornices*, whence it is that *Tully* calleth *Fabians* triumphall arch



arch *Fabianum fornem*. If it so hapned that the Roman Generall himselte personally, did take away any spoiles from the chiefe captain of the enemies, then did he hang them up in a temple consecrated to *Iupiter Feretrum*; who was so called,<sup>h</sup> becaute as the Romans conceited, without the speciall assistance of *Iupiter*, *Dux ducem ferire non poterat*: these spoiles had the name of *Optima spolia*, that is, Royall spoiles. The rewards bestowed upon the souldiers were divers: either places of offices, as the place of a Centurion, of a *Præf. Am.*, a *Decurio*, &c. or their pay was increased, the spoiles distributed amongst them: or lastly, they received certaine gifts termed *Dona militaria*. In ancient times those souldiers which had best deserved, received a certaine measure of corne called by them *Adorea*,<sup>i</sup> and hence it is, that *Adorea* is now used to signifie such laude and praise, as is due unto a souldier. But after ages for the better encouraging of the souldiers, have found out more honourable rewards, of which<sup>k</sup> these were the chiefe, *Armilla*, that is, a bracelet for the handwrest; *Torquis*, a chaine to weare about their neck; *Phalera*, horletrappings; *Hasta pura*, that is, a speare having no yron at the end of it, (it is sometimes called *Hasta donatica*, and *Hasta graminea*;) Lastly, *Corona*, crownes, of which *Ant. Gel lib. 5. cap. 6.* observeth these to have been the chiefe: 1. *Corona triumphalis*, which in old time was made of Lawrell, but after ward of gold, and thence was it called *Corona aurea*; it was sent by the Senate unto the L. Generall in honour of his triumph; Secondly, *Corona obsidionalis*, which was given by the souldiers unto the Generall, when they were freed from a siege; it was made of grasse growing in that place where they were besieged, whence it had the name also of *Corona graminea*. Now the reason why they made this crown of grasse growing in the place where they were besieged, was thereby to yeeld up their right in that place unto their Captain: for by that ceremony, as<sup>m</sup> *Pliny* in *Plin lib. 21* observeth, they did *Terræ & ipsâ altrice humo & humatione* cap. 4.

<sup>h</sup> Alex. Gen.  
dier. l. 1. c. 14.

<sup>i</sup> Alex. Gen.  
dier. l. c. 18.

<sup>k</sup> Sig. de jure  
Rom. c. 15.

<sup>l</sup> Rosin. ant.  
lib. 10. c. 27.



*etiam cedere.* And hence it is, that in races & the like mas-  
tories, he that was overcome, did gather some of the grasse of  
that place, & give it unto the conquerour, as a token that hee  
did acknowledge himselfe conquered; \* this is the reason of  
that Adage, *Herbam dare*, that is, to yeeld the victory. Third-  
ly, *Corona civica*, which was bestowed only upon him, which  
had saved a citizens life, \* though in processe of time it was  
also bestowed upon the L. Generall, if he spared a Roman ci-  
tizen, when he had power to kill him. It was commonly  
made of oake; whence it was called *Corona quercea*. And  
this I take to be the reason why in *Ovids* time the Emperour  
had alwaies standing before his gates, an oak tree in the midst  
of two lawrels, as an Emblem denoting two worthy vir-  
tues required in all Emperours & Princes; first, such whereby  
the enimie might be conquered; secondly, such whereby ci-  
tizens might be saved. Vnto this *Ovid* seemeth to allude,  
speaking of the lawrell tree,

\* Salmuth. in  
Pancir. l. reru  
deperd. cap. de  
coronis.  
o Pigh. l. Ty-  
rannif.

p Ovid. Met.  
lib. Fab. 9.  
q Dion. Hal.  
lib. 10.

P *Postibus Augustis eadem fidissima custos*

*Ante foris stabis, mediamq; tueri quercum.*

Fourthly, *Corona muralis*: \* Hee only was honoured with  
this, which did first scale the walls, & enter first into the ene-  
mies city, and hence this crown was put upon the Circlet or  
top like unto the battlements. Fifthly, *Corona Castrensis*. This  
the L. Generall bestowed on him, which first entred into the  
enimies tents; it did beare in it the resemblance of a Bul-  
wark or at least of the mound, wherewith the bulwark was  
strengthened; which mound was called in Latine *Vallum*, and  
thence the crown it selfe was often called *Vallaris corona*.  
Sixtly, *Corona navalis*, with which he was honoured, which  
first entred into the enimies ship in a battle upon sea: it was  
portrayed with many ship-beakes called in Latine *Rostra*,  
\* whence the crowne it selfe was often called *Corona Ro-*  
*strata*. That Roman *Heracles Siccini Dentatus* obtained al-  
most all those severall rewards, and that each many times.  
Lastly, *Corona ovalis*, it was made of Mirtle-tree, the L. Ge-  
nerall

\* Pigh. l. Ty-  
rannif.  
f A. Gel. no. 8.  
Artic. l. 2. c. 11.



observed by the Romans in their warres. 277

nerall used it in the lesser kinde of triumphs called *Ovationes*, from whence the Coronet it selfe was named *Ovalis*. It was then bestowed when the Herald had committed some errour in denouncing war; or when the enemies conquered were of mean rank and place, as Servants or Pyrats; or else if the victory were gotten without bloodshed or great hazard, the enemies yeelding without resistance. *In quibus*

*impulveris & incruentis victoriis, apta esse Ve-*

*neris frondem crediderunt, quod non Mar-*

*tins, sed quasi Venerens quidam*

*triumphus foret.*


**FINIS.**





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*Sinistra*



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*Trium. viri*



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